

1           IN THE UNITED STATES DISTRICT COURT  
2           FOR THE NORTHERN DISTRICT OF OHIO  
3           EASTERN DIVISION

4                           -   -   -

5   IN RE:   NATIONAL               :   MDL NO. 2804  
6   PRESCRIPTION OPIATE       :  
7   LITIGATION                   :

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7                                       :   CASE NO.  
8   THIS DOCUMENT               :   1:17-MD-2804  
9   RELATES TO ALL CASES:  
10                                       :   Hon. Dan A.  
11                                       :   Polster

12                           -   -   -

13                           Thursday February 7, 2019

14                           -   -   -

15   HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
16   CONFIDENTIALITY REVIEW

17                           -   -   -

18                                       Videotaped deposition of AL  
19   PAONESSA, taken pursuant to notice, was  
20   held at Buffalo Marriott Harbor Center,  
21   95 Main Street, Buffalo, New York 14203,  
22   beginning at 10:05 a.m., on the above date,  
23   before Amanda Dee Maslynsky-Miller, a  
24   Certified Realtime Reporter.

                         -   -   -

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- - -

2

(It is hereby stipulated and

3

agreed by and among counsel that

4

sealing, filing and certification

5

are waived; and that all

6

objections, except as to the form

7

of the question, will be reserved

8

until the time of trial.)

9

- - -

10

VIDEO TECHNICIAN: We are

11

now on the record. My name is Dan

12

Lawlor, I'm a videographer with

13

Golkow Litigation Services.

14

Today's date is February 7th,

15

2019, and the time is 10:05 a.m.

16

This video deposition is

17

being held in Buffalo, New York,

18

in the matter of National

19

Prescription Opiate Litigation,

20

MDL Number 2804.

21

The deponent is Al

22

Paonessa. Counsel will be noted

23

on the stenographic record. The

24

court reporter is Amanda Miller

1                   and will now swear in the witness.

2                                   -   -   -

3                   AL PAONESSA, after having  
4                   been duly sworn, was examined and  
5                   testified as follows:

6                                   -   -   -

7                                   EXAMINATION

8                                   -   -   -

9       BY MR. PENNOCK:

10               Q.       Mr. Paonessa, my name is  
11       Paul Pennock. I'm going to have quite a  
12       few questions for you today.

13                       Can we have an agreement  
14       that if at any time you don't understand  
15       my questions, you'll let me know?

16               A.       Yes.

17               Q.       Otherwise, I'm going to  
18       assume that you understood them, okay?

19               A.       Okay.

20               Q.       You do understand we're  
21       relying upon the truth of your answers  
22       here today?

23               A.       Yes.

24               Q.       As I understand it, you were

1 president of a company known as Anda from  
2 2005 to 2015; is that right?

3 A. Correct.

4 Q. And you worked at Anda, as  
5 well as a predecessor company, for some  
6 years before that; is that correct?

7 A. Yes.

8 Q. So before you became  
9 president, you worked in sales for about  
10 four years?

11 A. Two years in sales.

12 Q. Two years in sales.  
13 And before that, you worked  
14 in IT?

15 A. Yes. Two years.

16 Q. And the work that you did  
17 throughout that entire time period  
18 involved the distribution of  
19 pharmaceuticals; is that right?

20 A. Yes.

21 Q. During that time period, and  
22 I'm going to focus right now from 2005 to  
23 2015, during that time period, some of  
24 the pharmaceuticals that your company was

1 responsible for distributing were  
2 opioids; is that correct?

3 A. Correct.

4 - - -

5 (Whereupon, Anda-Paonessa  
6 Exhibit-1, Resume, Albert R.  
7 Paonessa, III, was marked for  
8 identification.)

9 - - -

10 BY MR. PENNOCK:

11 Q. I marked as Exhibit-1 to  
12 your deposition what I understand to be  
13 your resume.

14 MR. PENNOCK: Do you need a  
15 copy of that?

16 Do you need a copy?

17 MS. KOSKI: Yes.

18 BY MR. PENNOCK:

19 Q. Now, you currently work for  
20 a company known as KeySource?

21 A. Yes.

22 Q. And they also distribute  
23 pharmaceuticals?

24 A. Yes.

1 Q. Did they distribute opioids?

2 A. No.

3 MS. KOSKI: Object to form.

4 BY MR. PENNOCK:

5 Q. Did they, at one time,  
6 distribute opioids?

7 A. Yes.

8 Q. Back when you were at Anda,  
9 were they sometimes a customer of yours?

10 A. Not that I know of.

11 Q. I want to turn to the last  
12 page of your resume, because I had a  
13 question about something on it.

14 So, first of all, you  
15 indicate here that your strongest belief  
16 is that you always do what is right.

17 Do you see that statement?

18 A. Yes.

19 Q. Is that something you wrote?

20 A. Yes.

21 Q. Is that a belief that you've  
22 held for a long time, or just when you  
23 prepared this resume?

24 A. Always.



1 Q. A long time?

2 A. Yes.

3 Q. You also have something  
4 called a link to a Myers-Briggs  
5 Interpretive Report.

6 Do you see that?

7 A. Yes.

8 Q. Myers-Briggs, this is some  
9 kind of personality analysis; is that  
10 correct?

11 MS. KOSKI: Object to form.

12 THE WITNESS: I believe.

13 I'm not sure. I believe so.

14 BY MR. PENNOCK:

15 Q. Did somebody else put this  
16 on your resume, or did you put this on?

17 A. It was suggested by the  
18 person that created the resume for me.

19 Q. That you took this  
20 personality test, right?

21 A. No.

22 MS. KOSKI: Object to form.

23 You can answer.

24 THE WITNESS: This was

1           given -- this test was done while  
2           we were owned by Actavis, which  
3           was the parent company of Anda.

4                     They gave the test to the  
5           executives, and I took it and I  
6           got the report from it. And this  
7           gentleman who did my profile asked  
8           me if I had any of these, I said  
9           yes. And he thought it was good  
10          to put it into the resume, or at  
11          least the link to the document.

12   BY MR. PENNOCK:

13           Q.     Did you object to putting  
14   this on?

15           A.     No.

16           Q.     So it indicates that your  
17   personality, as determined by this  
18   Myers-Briggs test, includes -- the  
19   summary includes extraversion, right?

20                     That's what it found?

21           A.     Yes.

22           Q.     I mean, you sent this resume  
23   to people, haven't you?

24           A.     Yes.

1 Q. So when you sent it to them,  
2 this was on there, right?

3 A. Correct.

4 Q. And it also indicates that  
5 you have intuition, right?

6 A. Yes.

7 Q. And that your thinking and  
8 perceiving, that's your personality type,  
9 ENTP, right?

10 A. Yes.

11 Q. And you also wrote that  
12 ENTPs tend to be innovative, strategic  
13 thinkers, versatile, analytical and  
14 entrepreneurial.

15 Do you see that?

16 A. It's written there. I did  
17 not write that. That was -- comes from  
18 the Myers-Briggs description of what an  
19 ENTP is.

20 Q. Again, but this is your  
21 resume, you put that on there to declare  
22 yourself to have been found to be these  
23 things by the Myers-Briggs test, right?

24 A. Yes.

1 Q. Let me back up a little bit.

2 You --

3 MS. KOSKI: I'm sorry, just  
4 for one second. You didn't mark  
5 the exhibit, or if you did, you  
6 might have the one with the label.

7 MR. PENNOCK: I have it  
8 right here.

9 MS. KOSKI: The one he has  
10 doesn't have a label. Did you  
11 want him to be looking at the  
12 labeled one, or do you want to  
13 keep those?

14 MR. PENNOCK: Whatever you  
15 prefer. It doesn't matter to me.  
16 I just realized I was writing on  
17 the marked one.

18 MS. KOSKI: I saw you  
19 underlining it too. But you might  
20 want to be using the marked one.  
21 I'm just trying to figure it out.

22 BY MR. PENNOCK:

23 Q. When you were at Anda, you  
24 would sell -- well, let me back up.

1                   What is oxy?

2                   MS. KOSKI: Object to form.

3                   THE WITNESS: A

4                   pharmaceutical drug.

5       BY MR. PENNOCK:

6                   Q.       You've used that term

7       before, right, oxy?

8                   A.       Oxy? Sure. Yes.

9                   Q.       What does it refer to?

10                  A.       OxyContin.

11                  Q.       Is that it? Does it refer

12       to anything other than OxyContin?

13                  A.       Not that I know of.

14                  Q.       So when you were at Anda --

15       by the way, you were often referred to as

16       AL3; is that right?

17                  A.       Yes.

18                  Q.       Because you're Albert

19       Paonessa, III, correct?

20                  A.       Right.

21                  Q.       So when you were at Anda, at

22       one point in time, at least during 2008,

23       you were selling about \$7.5 million a

24       quarter in oxy; isn't that right?

1           A.       I'm not sure.

2           Q.       So if you were selling \$7.5  
3   million a quarter, that would be about  
4   \$30 million in oxy a year, right?

5                   MS. KOSKI: Object to form.

6                   THE WITNESS: Math-wise,  
7           yes.

8   BY MR. PENNOCK:

9           Q.       And, by the way, for the ten  
10   years that you were president at Anda,  
11   how much did you earn, in total?

12                   MS. KOSKI: Object to form.

13                   THE WITNESS: I don't know.

14   BY MR. PENNOCK:

15           Q.       Do you have an estimate for  
16   how much you earned?

17           A.       For the ten years?

18                   MS. KOSKI: Are you asking  
19   him personally or the company?

20                   MR. PENNOCK: I'm asking him  
21   how much he earned for the ten  
22   years he was at Anda.

23                   MS. KOSKI: Personally?

24                   THE WITNESS: I can try to

1           go year by year and add it up in  
2           my head, but I don't really know  
3           how much it was. A lot of it was  
4           in stock, too. So that changed in  
5           value over time.

6                     My salary was around  
7           \$400,000. And then I got bonuses  
8           of up to 50 to 75 percent of that.  
9           So on a yearly basis, I would get  
10          somewhere around \$650,000.

11                    And then I got stock that  
12          vested over four years. And I  
13          don't know what the value of that  
14          is. But the company itself grew  
15          quickly and the stock appreciated,  
16          too. So it was Actavis stock, it  
17          wasn't Anda stock.

18       BY MR. PENNOCK:

19                   Q.       So taking your income,  
20          including bonuses, we can rough it out  
21          that as -- ten years as president, you  
22          made somewhere in the neighborhood of  
23          \$6.5 million?

24                   A.       Possibly.

1 Q. And in addition to that, you  
2 received stock?

3 A. Yes.

4 Q. What were your bonuses based  
5 on?

6 A. Bonuses were based -- 40  
7 percent was based on the contribution or  
8 what Anda did for the company, and then  
9 60 percent was based on what Actavis did  
10 as a company.

11 Q. Did you meet with lawyers  
12 regarding your deposition here today to  
13 prepare?

14 A. Yes.

15 Q. How long did you meet?

16 A. Yesterday, probably three,  
17 four hours.

18 Q. Did you meet with any --  
19 anybody other than a lawyer to prepare  
20 you for presentation at this deposition?

21 A. No.

22 MR. PENNOCK: I'll mark this  
23 as Exhibit-2.

24 - - -



1 (Whereupon, Anda-Paonessa  
2 Exhibit-2,  
3 Anda\_Opioids\_MDL\_0000618121-123,  
4 was marked for identification.)

5 - - -

6 THE WITNESS: Okay.

7 BY MR. PENNOCK:

8 Q. Sir, you've had an  
9 opportunity to read Exhibit-2; is that  
10 right?

11 A. Yes.

12 Q. I'm going to look at the  
13 first -- this is a series of e-mails,  
14 true?

15 A. Yes.

16 Q. The first e-mail in this  
17 Exhibit-2 is an e-mail from you to a  
18 gentleman by the name of Paul Bisaro,  
19 right?

20 A. Yes.

21 Q. Who is he?

22 A. He was a CEO of, at that  
23 time named Watson, before we became  
24 Actavis.

1 Q. CEO, Watson.

2 And Mr. Bisaro, he was your  
3 boss, right?

4 A. Yes.

5 Q. Now, you indicate to him  
6 that -- you're talking about some kind of  
7 opportunity to buy Oxy, aren't you?

8 A. Yes.

9 Q. And you start out the e-mail  
10 by saying that Mallinckrodt worked a deal  
11 with Purdue to market a generic OxyContin  
12 for an undisclosed number of months.

13 Do you see that?

14 A. Yes.

15 Q. Mallinckrodt was one of your  
16 competitors?

17 A. No.

18 Q. Who is Mallinckrodt?

19 A. They are a manufacturer of  
20 generic pharmaceuticals.

21 Q. And you didn't consider them  
22 to be one of your competitors at that  
23 time?

24 A. No.

1 Q. They didn't distribute in  
2 any way?

3 A. I'm not sure what they  
4 distributed. They sold to other  
5 distributors and wholesalers like myself.

6 Q. So who -- who were you  
7 talking about buying the Oxy from in this  
8 e-mail?

9 A. It looks like Kinray, which  
10 was a full-line wholesaler in the New  
11 York City market.

12 Q. So Kinray was a distributor?

13 A. Wholesaler/distributor, yes.  
14 They were a full-line wholesaler.

15 Q. What does that mean?

16 A. They sold brand drugs,  
17 generic drugs, OTCs, Kleenex, things like  
18 that. So they did the front end and the  
19 back end of a pharmacy.

20 Q. What does it mean that the  
21 Kinray product comes with a pedigree?

22 A. It means that the -- that  
23 Dava sold the drug directly to Kinray.  
24 And that when I would purchase the drug,

1     that I knew it came from Kinray and it  
2     wasn't -- I knew where it was at all  
3     times. It came with a pedigree.

4                     Florida passed a law that  
5     you had to do past pedigrees, I believe  
6     it was in July of '07. We were the only  
7     state with it, and we couldn't purchase a  
8     product or sell a product if we didn't  
9     trace it back to the origin.

10            Q.     So in any event, you  
11     indicate here that Anda does about 7.5  
12     million per quarter of Oxy.

13                     Do you see that?

14            A.     Yes.

15            Q.     And that you can buy another  
16     batch of Dava from Kinray at a 7 percent  
17     better price than the price Mallinckrodt  
18     offered us.

19                     Do you see that statement?

20            A.     Yes.

21            Q.     And then you recommend to  
22     your boss that you wanted to buy \$8.35  
23     million, on Monday, of Oxy?

24            A.     Yes.

1 Q. And that would give you  
2 about a four-month supply --

3 A. Yes.

4 Q. -- right?

5 Now, were there other Oxy --  
6 were there other products that contained  
7 opioids that you sold, other than Oxy?

8 MS. KOSKI: Object to form.

9 THE WITNESS: Yes.

10 BY MR. PENNOCK:

11 Q. How many?

12 A. I don't know.

13 Q. So whatever the 7.5 million  
14 per quarter of Oxy, that did not  
15 represent your total sales, at that time,  
16 of opioid products, correct?

17 A. Correct.

18 Q. Now, at some point -- by the  
19 way, this was in -- this was in September  
20 of 2008, right?

21 A. Yes.

22 Q. At some point in the summer  
23 of 2007, you formed an agreement with the  
24 DEA that you would not sell more than

1     5,000 units of a particular drug to  
2     customers of yours; is that correct?

3                   MS. KOSKI: Object to form.

4                   THE WITNESS: No.

5     BY MR. PENNOCK:

6                   Q.     You had an agreement that  
7     you would not sell more than 5,000 units  
8     of a drug to customers, more than that in  
9     one month, right?

10                  MS. KOSKI: Object to form.

11                  THE WITNESS: No.

12     BY MR. PENNOCK:

13                  Q.     So what agreement did you  
14     form, in your mind, in 2007?

15                  MS. KOSKI: Object to form.

16                  Go ahead.

17                  THE WITNESS: There was  
18                         never an agreement. We met with  
19                         the DEA, and the DEA gave us a  
20                         guideline that nobody should  
21                         really have more than 5,000  
22                         tablets at any time.

23                         They didn't define -- at  
24                         that point in time, they didn't

1           define if it was an opioid or the  
2           type of chemical it was. They  
3           just basically said no pharmacy  
4           should have more than 5,000,  
5           unless there's reasons for it, and  
6           we would have to understand why we  
7           would give them more than 5,000.

8                       But as a rule of thumb, that  
9           they felt that we should not -- a  
10          common -- based on the industry, a  
11          pharmacy should not, probably,  
12          sell more than 5,000 tablets at  
13          any time, unless there was a  
14          reason for it, that we would have  
15          to investigate.

16       BY MR. PENNOCK:

17               Q.     Well, after having this  
18          discussion with the DEA -- by the way,  
19          you were personally part of that  
20          discussion, weren't you?

21               A.     Which discussion was it? We  
22          spoke with them a lot.

23               Q.     Whatever discussion you had  
24          where they provided you with this

1 guideline that you should probably not  
2 sell more than 5,000 tablets at any time,  
3 unless there was a reason for it.

4 A. I don't recall the exact  
5 time that that conversation happened, but  
6 you're in the right time frame. It was  
7 somewhere in there.

8 We spoke with them a lot.  
9 The DEA -- the local DEA was literally  
10 across the street from the Anda office.  
11 We communicated all the time, a lot.

12 But I don't remember that  
13 exact conversation. But at that point,  
14 it was 5,000 is what they discussed it  
15 would be, a rule of thumb for us to look  
16 at.

17 Q. And you took that rule of  
18 thumb very seriously, didn't you?

19 A. Yes.

20 Q. And you applied that to your  
21 practice, in terms of sales; isn't that  
22 right?

23 A. Yes.

24 Q. And the reason that you



1 applied it to your practice, in terms of  
2 sales, was because you understood that  
3 there was -- there appeared to be a  
4 problem regarding the diversion of  
5 opioids, right?

6 A. Yes.

7 Q. And at that time, was that a  
8 concern of yours, to take steps to avoid  
9 the diversion of opioids?

10 A. Yes.

11 Q. Now, you mentioned that if  
12 some customer wanted more than 5,000,  
13 that, then, you would investigate, true?

14 A. Yes.

15 Q. And what was the nature of  
16 that investigation?

17 A. If we are talking about the  
18 2006, '07 time frame, then they would  
19 have a questionnaire. We understand who  
20 they sold to. We would look at exactly  
21 what we sold to them, too, ourselves, and  
22 look at what their mix was.

23 Then we would try to also  
24 get a dispensing record from them of what

1     they're dispensing so we could find out  
2     where else they're buying opioids from.  
3     Because the DEA would not share that  
4     information with us.

5             Q.     When you -- if you received  
6     an order for, let's say, 10,000 units,  
7     would you report that to the DEA if you  
8     didn't agree to fulfill that order?

9             MS. KOSKI:   Object to form.

10            THE WITNESS:   We did -- our  
11            goal was to do the due diligence  
12            on the front end to not even allow  
13            a person to place an order for  
14            that.

15            So they knew what their --  
16            their limits that they could  
17            possibly have.   If they tried to  
18            place an order, which they didn't,  
19            if they tried to place an order,  
20            we would have identified the DEA  
21            that they wanted more than the  
22            5,000 limit.

23            But if they -- but we would  
24            try to proactively not allow --

1           proactively tell our customers  
2           that this is all you're going to  
3           get. And if there's a reason that  
4           your facility needs more than  
5           5,000, then you're going to have  
6           to, you know, give us more due  
7           diligence in order for us to  
8           approve that.

9                               - - -

10                           (Whereupon, Anda-Paonessa  
11           Exhibit-3,  
12           Anda\_Opioids\_MDL\_0000078211-212,  
13           was marked for identification.)

14                           - - -

15   BY MR. PENNOCK:

16           Q.     I'm going to show you what's  
17   been marked as Exhibit-3 to your  
18   deposition.

19                       MR. PENNOCK: For the  
20           record, I did not identify it,  
21           Exhibit-2 was Anda\_Opioids\_MDL,  
22           Bates number 0000618121.

23                       Exhibit-3 is same prefix,  
24           0000078211.

1 THE WITNESS: Okay.

2 BY MR. PENNOCK:

3 Q. So this Exhibit-3 is a  
4 letter that -- I'm sorry, an e-mail that  
5 you were cc'd on, right?

6 A. Yes.

7 Q. And Michael Cochrane, he was  
8 somebody that worked for you, right?

9 A. Yes.

10 Q. And he was involved in -- or  
11 he was responsible for compliance; is  
12 that right?

13 A. Yes.

14 Q. And Patrick Cochrane also  
15 worked for you, right?

16 A. Yes.

17 Q. And he also -- you consulted  
18 him with respect to compliance as well on  
19 occasion, right?

20 A. Yes.

21 Q. And in this e-mail, do you  
22 agree with me, it appears that a  
23 customer, KeySource -- by the way, is  
24 Steve Cochrane related to Michael and

1 Patrick Cochrane?

2 A. No, no.

3 Q. So KeySource was looking to  
4 purchase OxyContin from you, right?

5 A. Correct.

6 Q. And KeySource, according to  
7 Michael Cochrane, who is e-mailing you,  
8 he says, I raised the 30,000 for the  
9 order they sent.

10 What does that mean?

11 A. He raised their limit to  
12 30,000.

13 Q. He says, Ron is under the  
14 impression that we are going to raise  
15 again.

16 Do you see that?

17 A. Correct.

18 Q. He says, George, your e-mail  
19 yesterday was that it was a small amount,  
20 no worries. I can say we all agreed.

21 Have I read that correctly?

22 A. Yes.

23 Q. But now raising them to more  
24 than triple what we originally did is a

1 different story.

2 Right?

3 A. Correct.

4 Q. As far as I know, they have  
5 no intentions on buying anything else  
6 from us.

7 Do you see that?

8 A. Yes.

9 Q. What he means is that  
10 they're only buying -- they're only going  
11 to be buying the OxyContin from you?

12 A. Correct.

13 Q. And that -- that statement  
14 relates to the mix of their purchases  
15 that I think you alluded to earlier,  
16 right?

17 A. I alluded to that as though  
18 they were independent pharmacies. This  
19 was a distributor.

20 Q. So you didn't concern  
21 yourself with whether they were  
22 purchasing anything other than Oxy from  
23 you if they were a distributor?

24 MS. KOSKI: Object to form.

1 THE WITNESS: I don't  
2 remember this e-mail at all, so I  
3 don't know.

4 BY MR. PENNOCK:

5 Q. Well, what was your  
6 protocol?

7 MS. KOSKI: Object to form.

8 THE WITNESS: In 2007 on  
9 this, I don't recall.

10 BY MR. PENNOCK:

11 Q. Well, Michael Cochrane, who  
12 you just indicated was in charge of  
13 compliance, he made the statement to you,  
14 As far as I know, they have no intentions  
15 of buying anything else from us.

16 Do you see that?

17 A. Yes.

18 My statement is that -- what  
19 I'm trying to say is that I don't  
20 remember what the exact protocol was for  
21 a wholesaler or distributor. I know for  
22 an independent it was different.

23 I don't recall what we had  
24 as that -- at that time in 2007, I do not

1 recall what we had, you know, for a  
2 situation of selling to another  
3 distributor.

4 Q. He says, They are  
5 overnighting a form to us for an

■

7 Do you see that?

8 A. Correct.

9 Q. That's the -- is that the  
10 222 form they had to fill out?

11 A. Correct.

12 Q. That was required for any  
13 purchase of a controlled substance Level  
14 II, right?

15 A. Yes.

16 Q. We only shipped half of  
17 their first order, due to some credit  
18 issues.

19 And then he says, Should we  
20 only ship the remainder of what they have

■

22 Do you see that statement?

23 A. Correct.

24 Q. And then he asks, Do we want



1

2

3

Do you see that?

4

A. Correct.

5

Q. He's directing that to you?

6

A. Yes.

7

Q. And the reason he's

8

directing it to you is that you were the

9

person that would make the final decision

10

on all increases over the limit; isn't

11

that right?

12

A. Yes.

13

Q. And you did that on a

14

regular basis for many years at Anda,

15

right?

16

A. Yes, yes.

17

Q. And, typically, it would be

18

Mr. Cochrane that would e-mail you and

19

indicate what the situation was and

20

request whether you approved an increase,

21

right?

22

A. Yes.

23

Q. Now, you wrote back to him,

24

Stay where you are.

1 MS. KOSKI: Object to form.

2 BY MR. PENNOCK:

3 Q. Do you see that statement?

4 A. Yes. I can only assume, he  
5 was across the hall from me, so I  
6 probably walked across and talked to him.

7 MS. KOSKI: My objection is  
8 the e-mail back to him is not from  
9 Mr. Paonessa, it's from Mr.  
10 Fields.

11 MR. PENNOCK: Oh, I didn't  
12 pick up on that. I apologize.  
13 Let me -- let me check that.

14 BY MR. PENNOCK:

15 Q. Who is George Fields?

16 A. George Fields, in 2007,  
17 would have been director of sales.

18 Q. Why is he chiming in here?

19 A. Well, it was common for a  
20 rep to plead their case to someone above  
21 them for their customer, why we wouldn't  
22 allow people to have certain limits.

23 Very common that it would happen.

24 But my feelings were we

1     should always listen but not say -- you  
2     know, we didn't have a blanket, just do  
3     it; we would listen and then we would  
4     start our due diligence on it.

5             Q.     So do you know if this sale  
6     was approved or not?

7             A.     No idea.

8             Q.     No recollection of that?

9             A.     No.

10            Q.     How would we find that out?

11            A.     You'd have to get the  
12     records from Anda.

13            Q.     If this sale were not  
14     approved, would it have been your  
15     protocol, at that time, to have reported  
16     KeySource to the DEA for a suspicious  
17     order?

18            A.     I don't know. On a  
19     distributor, I do not know -- I don't  
20     remember what our protocol was on  
21     distributors at that time.

22                    If that was an independent  
23     pharmacy, I would have said yes.

24            Q.     If it was an independent,

1     you would have?

2             A.     Yes.

3             Q.     Okay.

4             A.     Well, let me add to that.

5                     I would have, had the due  
6 diligence came back on an independent  
7 that did not warrant them to have an  
8 increase. Which we did numerous times  
9 that we sent to the DEA, once due  
10 diligence, that this is -- we would turn  
11 the customer off and we would not give  
12 them more Oxy or hydrocodone.

13             Q.     So if a customer placed an  
14 order -- withdrawn.

15                     If a customer requested to  
16 place an order with you that was  
17 increasing their limits and you declined  
18 it, then you would report it to the DEA,  
19 right?

20                     MS. KOSKI: Object to form.

21                     THE WITNESS: Well, it would  
22 not be an order. They would  
23 request for a limit increase.

24                     If they wanted a limit

1           increase, we would do the due  
2           diligence on the customer. So  
3           this was always a contention with  
4           the DEA, that we said, we won't  
5           allow people to order, we've put  
6           systems in, they can't order more  
7           than they're allowed to have.

8                     And we trained them, if you  
9           want more, you need to give us  
10          information. And the  
11          information -- you're talking in  
12          2007 and '08. It changed again in  
13          2010, '12. It changed again,  
14          probably, before I left Anda.

15                    So it was constantly us  
16          trying to figure out exactly --  
17          you know, part of my opinion of  
18          the DEA was they wanted us to work  
19          extra hard on this, and I agree  
20          with that opinion of theirs, but  
21          they never gave us really solid  
22          guidelines of what to go on and  
23          what to do.

24                    So we would do everything we

1           can to try to figure out, you  
2           know, what this -- if this  
3           customer was a good customer or a  
4           bad customer when it came to  
5           opioids.

6                       So, most likely, an order  
7           never came through for -- from an  
8           independent pharmacy, because we  
9           didn't allow them to order and we  
10          either turned them over to the DEA  
11          or we gave them the increase.

12       BY MR. PENNOCK:

13               Q.       Why is it that you only were  
14          concerned about selling too much opioid  
15          to independent pharmacies and not  
16          distributors?

17                       MS. KOSKI: Object to form.

18                       THE WITNESS: I don't have  
19          an answer for that.

20                       I am very surprised,  
21          actually, that we sold to  
22          KeySource. I'm the CEO of  
23          KeySource, and I had no idea that  
24          we had sold to them back in 2007.

1 BY MR. PENNOCK:

2 Q. Okay. Let me see if I can  
3 understand this, though.

4 You mentioned several times  
5 the -- looking at and not agreeing to  
6 fulfill an order from an independent  
7 pharmacy.

8 But I -- is it correct that  
9 you had a different standard for  
10 distributors?

11 MS. KOSKI: Object to form.

12 THE WITNESS: Possibly. I  
13 don't recall.

14 BY MR. PENNOCK:

15 Q. You would agree with me that  
16 an order -- withdrawn.

17 You would agree, wouldn't  
18 you, that selling 75,000 units of an  
19 opioid to a pharmacy per month was a very  
20 high order?

21 MS. KOSKI: Object to form.

22 THE WITNESS: It would be  
23 unique.

24 BY MR. PENNOCK:

1 Q. Have you seen documents  
2 relating to Lake Erie Medical?

3 A. Yes.

4 Q. Do you know who Lake Erie  
5 Medical is?

6 A. Yes.

7 Q. Who is Lake Erie Medical?

8 A. They are a repackaging  
9 company out of Erie, Pennsylvania.

10 Q. What does that mean, a  
11 repackaging company?

12 A. This particular company  
13 would take different pharmaceuticals in  
14 bottles and they would break them down  
15 into tablets -- into unit of use type of  
16 tablets for nursing homes, hospitals,  
17 blister packs, a unit of use may be 28  
18 pills or 10 pills, and then put it into  
19 their own NDC number. And then it would  
20 be sold -- resold to whoever the  
21 pharmacies were that they had accounts  
22 with.

23 Q. You said that -- you were  
24 referring to Lake Erie Medical in Erie,



1     Pennsylvania?

2             A.     I believe that's where  
3     they're from.

4             Q.     Do you know of a Lake Erie  
5     Medical in Toledo, Ohio?

6             A.     No, I don't recognize that.  
7     I don't remember that. I thought they  
8     were in Erie, Pennsylvania.

9                     They came and visited us --  
10    I don't remember. And we visited them,  
11    too. But I didn't go on the trip to  
12    visit them.

13                    -   -   -

14                    (Whereupon, Anda-Paonessa  
15    Exhibit-4,  
16    Anda\_Opioids\_MDL\_0000276293-299,  
17    was marked for identification.)

18                    -   -   -

19    BY MR. PENNOCK:

20             Q.     Let me show you what's been  
21    marked as Exhibit-4 now to your  
22    deposition, bearing Bates number  
23    0000276293.

24             A.     Okay.

1 Q. Do you recall someone by the  
2 name of Mike Holmes?

3 A. No.

4 Q. If you look at -- you see  
5 that this exhibit begins -- the top page  
6 is an e-mail, but it attaches some  
7 letters, right?

8 A. Yes.

9 Q. And the first letter in  
10 order, chronological order, is a letter  
11 to Lake Erie Medical Supply -- I'm sorry,  
12 to Lake Erie Medical and Surgical Supply.

13 Do you see that?

14 A. Yes.

15 Q. And that's from the DEA  
16 Detroit field division, right?

17 A. Yes.

18 Q. And after that, there's a  
19 letter that is part of the attachment  
20 that appears to be a letter sent to the  
21 DEA by Mike Holmes, president of Lake  
22 Erie Medical Supply, right?

23 A. Correct.

24 Q. And then both of these

1 letters make their way, through an  
2 e-mail, to Mike Cochrane, who worked for  
3 you?

4 A. Yes.

5 Q. He was in charge, we  
6 mentioned earlier, of compliance, right?

7 A. Correct.

8 Q. Meaning compliance with  
9 these regulations and laws concerning the  
10 distribution and the sale of opioids --

11 MS. KOSKI: Objection.

12 BY MR. PENNOCK:

13 Q. -- as well as other  
14 compliance, right?

15 MS. KOSKI: Object to form.

16 THE WITNESS: Yes.

17 BY MR. PENNOCK:

18 Q. Now, this someone -- Jeannie  
19 Sieren, do you know who she is?

20 A. No.

21 Q. Well, she sent it to Mike  
22 Cochrane. And she says, Hi Michael, Mike  
23 Holmes asked me to send this to you.

24 Do you see that statement?

1 A. Yes.

2 Q. This is a copy of our letter  
3 from the DEA and our response to the DEA.  
4 We will also forward you our written plan  
5 of action.

6 Do you see that?

7 A. Yes.

8 Q. So does it appear to you  
9 that there -- withdrawn.

10 Do you -- based on the  
11 protocols that you had back in June of  
12 2008, can you shed some light on why this  
13 would have been sent to you?

14 MS. KOSKI: Object to form.

15 THE WITNESS: No. I have no  
16 idea why they got this -- why we  
17 got it.

18 And I have no idea why it  
19 was sent or what was going on at  
20 that time.

21 BY MR. PENNOCK:

22 Q. Well, Lake Erie -- this Lake  
23 Erie Medical from Toledo, Ohio, it  
24 appears, was a customer of yours? Is

1       that what it looks like to you?

2               A.       Yes.

3               Q.       And do you have any  
4       recollection of selling opioids to Lake  
5       Erie in Toledo, Ohio?

6                       MS. KOSKI:   Object to form.

7                       THE WITNESS:   I don't  
8       remember doing that.

9       BY MR. PENNOCK:

10              Q.       Having seen that this is  
11       Lake Erie Medical Supply from Toledo,  
12       Ohio, does that refresh your recollection  
13       that the Lake Erie Medical was in Toledo,  
14       Ohio and not Erie, Pennsylvania?

15              A.       It -- I'm sure that this  
16       Lake Erie Medical is the one that we're  
17       both talking about. I just thought it  
18       was in Lake -- I thought it was in Erie,  
19       Pennsylvania.

20              Q.       Had you seen these documents  
21       before?

22              A.       No.

23                               -   -   -

24                               (Whereupon, Anda-Paonessa

1 Exhibit-5,  
2 Anda\_Opioids\_MDL\_0000282942, was  
3 marked for identification.)

4 - - -

5 BY MR. PENNOCK:

6 Q. Let me show you Exhibit-5 to  
7 your deposition. This is an e-mail  
8 bearing Bates number 0000282942.

9 A. Okay.

10 Q. Now, the first e-mail on  
11 Exhibit-5 is an e-mail to you from Mike  
12 Cochrane, right?

13 A. Correct.

14 Q. And it's October 25th, 2007.

15 It says, Al, I need your  
16 approval to change the monthly dosage  
17 limit percentage on the account listed

18 [REDACTED]

19 [REDACTED]

20 month.

21 Have I read that correctly?

22 A. Correct.

23 Q. The reason, he says, it's

24 [REDACTED]

■ [REDACTED]

2 right?

3 A. Possibly. I'd have to --  
4 I'd have to do a calculator, but that's  
5 probably correct.

6 Q. And you replied, Approved.

7 A. Correct.

8 Q. So what was your basis for  
9 approving a 1,400 percent increase to  
10 this customer?

11 A. There's not enough here for  
12 me to say why I approved it. Most cases,  
13 we spoke about it.

14 Q. So you think you spoke about  
15 it?

16 A. Yes. We always spoke about  
17 it. I never approved anything without  
18 having backup on it, or maybe not in the  
19 e-mail. But there was a discussion about  
20 the account, of why they would do it.

21 And then they would say,  
22 okay, I'll send you for approval. And I  
23 would approve it. In --

24 Q. So you think that you spoke

1     about it --

2             A.     I'm sure I spoke about it.

3             Q.     -- before this e-mail was  
4     sent to you?

5             A.     Yes.

6             Q.     And then about four hours  
7     later you approved it?

8                     You're saying you approved  
9     it before it was ever sent to you?

10            A.     Absolutely.

11            Q.     Was that your protocol?

12            A.     Always.

13            Q.     And what type of information  
14     did you require to approve such an  
15     enormous increase?

16                     MS. KOSKI: Object to form.

17     BY MR. PENNOCK:

18            Q.     You agree with me that's an  
19     enormous increase, don't you?

20                     MS. KOSKI: Object to form.

21                     THE WITNESS: I agree it's  
22     not a normal one that you would  
23     have seen Anda do.

24     BY MR. PENNOCK:



\_\_\_\_\_

2 dosage units a month, right?

3 MS. KOSKI: Object to form.

4 THE WITNESS: There's so  
5 much behind that, that I'm not  
6 looking at right now, that I can't  
7 answer that question.

8 BY MR. PENNOCK:

9 Q. Do you know where any of  
10 that documentation is?

11           A.       It would be in the Anda  
12   compliance department.

13 Q. It should be in the Anda  
14 compliance files, right?

15           A.     I would assume so, yes.

16 Q. Right. You never directed  
17 anyone to destroy any documents --

18 A. Never.

19 Q. -- did you?

20                    A.        Never.

21 Q. You never directed anyone to  
22 destroy any e-mails?

23                    A.        Never.

24 Q. You have -- did you ever

1 learn that there was any destruction of  
2 documents concerning opioids at Anda?

3 A. Never.

4 Q. Since -- even since you  
5 left, have you heard any rumor of that?

6 A. Never.

7 Q. Sir, I'm showing you what's  
8 been marked as Exhibit-6 to your  
9 deposition. And it's 0000273685.

10 - - -

11 (Whereupon, Anda-Paonessa  
12 Exhibit-6,  
13 Anda\_Opioids\_MDL\_0000273585-586,  
14 was marked for identification.)

15 - - -

16 MS. KOSKI: The exhibit that  
17 you gave the witness seems to be  
18 more pages than the one that you  
19 gave me.

20 Oh, you just gave him more  
21 than one copy.

22 MR. PENNOCK: Sorry.

23 BY MR. PENNOCK:

24 Q. Have you had a chance to

1 look at that e-mail chain?

2 A. Yes.

3 Q. Exhibit-6, this starts out  
4 with an e-mail to you at 9:00 in the  
5 morning on June 17th, and it says, Al, I  
6 need your approval to change the monthly  
7 dosage limit percentage on the account

■ [REDACTED]

■ [REDACTED]

11 Medical.

12 Do you see that?

13 A. Yes.

14 Q. It's the same customer we  
15 were talking about a moment ago --

16 A. Correct.

17 Q. -- right?

18 A. Do you know what product it  
19 is?

20 Q. We'll get to that.

21 And you said, You have  
22 backup for this?

23 Do you see that statement?

24 A. Yes.

1 Q. Feel comfortable?

2 A. Yes.

3 Q. And he wrote back, Yes.

4 Right?

5 A. Correct.

6 Q. And you approved it?

7 A. Correct.

8 Q. So is it your testimony that  
9 you had a conversation with him about the  
10 basis for his feeling comfortable for  
11 this increase?

12 A. I don't recall this specific  
13 situation.

14 Q. Well, what would have been  
15 your basis to approve an increase of --  
16 from 1,400 percent to 2,400 percent back  
17 in June of 2008?

18 A. I believe that our due  
19 diligence that Michael had backup for was  
20 going to be adequate. Whether I saw it  
21 or not, I do not recall.

22 Q. So it's possible that you  
23 may have approved it without seeing it?

24 A. Not before asking, do you

1 have backup to justify it? That's what  
2 the, Do you have backup for.

3 Q. And if Cochrane said, Mike  
4 Cochrane said, yes, I have backup, then  
5 you would sign-off on it?

6 A. It looks like I did in this  
7 instance. I don't know exactly what I  
8 thought he would have or not have at that  
9 time.

10 I knew he had reviewed Lake  
11 Erie Medical numerous times. So I  
12 probably assumed that he had the backup  
13 that I was expecting.

14 Q. You understood at that time  
15 that there appeared to be a problem with  
16 opioids in the United States, didn't you?

17 MS. KOSKI: Object to form.

18 THE WITNESS: Not -- at this  
19 period of time in 2006 and '07,  
20 not to the extent that we saw in  
21 later years, no.

22 BY MR. PENNOCK:

23 Q. You knew people were dying  
24 from opioids at that time, didn't you?

1 MS. KOSKI: Object to form.

2 THE WITNESS: I would assume  
3 they did. But I don't -- you  
4 know, I don't believe that, at  
5 that period of time, it was like  
6 what we currently see today.

7 BY MR. PENNOCK:

8 Q. Well, if we go back to  
9 Exhibit-4, the letter from -- the letters  
10 that Lake Erie sent to Mike Cochrane from  
11 the DEA -- go back to Exhibit-4, please.

12 A. Okay.

13 Q. And so you approved this  
14 increase on June 17th, 2008. And the  
15 letters regarding the DEA -- or, I'm  
16 sorry, the letter from the DEA to Lake  
17 Erie and Lake Erie's response was about  
18 two weeks earlier, June 4th, 2008.

19 Do you see that? That's  
20 when they were sent to Cochrane.

21 MS. KOSKI: Object to form.

22 THE WITNESS: Okay.

23 BY MR. PENNOCK:

24 Q. So the letters that we

1 looked at a few minutes ago in Exhibit-4  
2 were e-mailed to Michael Cochrane, who  
3 worked for you, on June 4th, 2008, right?

4 A. Correct.

5 Q. And then what we just looked  
6 at in Exhibit-6 was June 17th, 2008,  
7 right?

8 A. Correct.

9 Q. Now, Mr. Cochrane, at least,  
10 had available to him a letter, and I want  
11 to -- that letter. And let's look at  
12 some of the things the DEA said to Lake  
13 Erie, if you want to take a minute.

14 A. Okay.

15 Q. All right. Thank you.

16 Let's look at the -- so the  
17 DEA letter to Lake Erie indicates that,  
18 tell me if I'm reading this correctly,  
19 please, Inventories performed did not  
20 contain complete and accurate records of  
21 all controlled substances.

22 Do you see that statement?

23 A. Yes.

24 Q. Retention samples resulting

1 from the manufacturing process were not  
2 included in the inventories.

3 Do you see that?

4 A. Yes.

5 Q. What are retention samples?

6 A. When they would break down a  
7 bottle and put it into, say, blister  
8 packs, for example, there would not --  
9 they would have to save certain tablets  
10 and put them -- keep them on file,  
11 basically, of something that went out as  
12 it was broken down into different  
13 packaging.

14 So they had to keep  
15 something in the building. So those  
16 tablets needed to be accounted for.

17 Q. But they hadn't done that,  
18 right?

19 A. Per this, yes.

20 Q. It appears they hadn't done  
21 that?

22 A. It appears they hadn't done  
23 that.

24 Q. There was some missing



1 product, right?

2 A. Yes.

3 Q. And then they say, Damaged  
4 controlled substances stock retained by  
5 the firm -- meaning Lake Erie Medical,  
6 right?

7 A. Yes.

8 Q. -- was not included in the  
9 inventories.

10 Do you see that statement?

11 A. Yes.

12 Q. So that means that if they  
13 claimed that some product was somehow  
14 damaged, they didn't keep track of that?

15 A. It appears so.

16 Q. That's not good, is it?

17 MS. KOSKI: Object to form.

18 THE WITNESS: No.

19 BY MR. PENNOCK:

20 Q. Mr. Cochrane did not bring  
21 this to your attention when he asked you  
22 to increase from 1,400 percent to 2,400  
23 percent two weeks later, did he?

24 MS. KOSKI: Object to form.

1 THE WITNESS: I don't  
2 recall.

3 BY MR. PENNOCK:

4 Q. It doesn't appear that he  
5 did?

6 MS. KOSKI: Object to form.

7 THE WITNESS: Agree.

8 BY MR. PENNOCK:

9 Q. I mean, if he had brought  
10 that to your attention, you -- under your  
11 protocol, you wouldn't have approved  
12 this, would you?

13 MS. KOSKI: Object to form.

14 THE WITNESS: There would  
15 have been more information that I  
16 would have needed to see. But  
17 this would have been alarming.

18 BY MR. PENNOCK:

19 Q. Okay.

20 - - -

21 (Whereupon, Anda-Paonessa  
22 Exhibit-7,  
23 Anda\_Opioids\_MDL\_0000258573, was  
24 marked for identification.)



1                   Do you draw -- is there some  
2   distinction between a distributor and a  
3   wholesaler?

4                   A.     Yeah, the full-line  
5   wholesaler versus a distributor. A  
6   distributor is more of a secondary or  
7   tertiary to pharmacies around the  
8   country, where a full-line wholesaler, he  
9   would be selling everything to most of  
10   his accounts; but he also operated  
11   slightly as a distributor, too, with some  
12   telesales, which wasn't really common in  
13   our industry.

14                  Q.     So he asked you, What do you  
15   want to increase Harvard to?

16                         And Harvard was a wholesaler  
17   of --

18                  A.     Yes.

19                  Q.     -- products, including  
20   pharmaceuticals, right?

21                  A.     Yes.

22                  Q.     And this has nothing to do  
23   with Harvard College?

24                  A.     No.

1 Q. Or Harvard University?

2 A. No.

3 Q. This was a wholesaler  
4 located in -- around Detroit, Michigan?

5 A. Yes.

6 Q. And he says, Jay is working  
7 on getting an Oxy order.

8 Who is Jay?

9 A. He was the head of  
10 procurement. He was the one that had to  
11 do the order forms if we were selling or  
12 we were buying.

13 Q. So Jay was in charge of  
14 buying Oxy for you that you would then  
15 sell to someone else?

16 MS. KOSKI: Object to form.  
17 BY MR. PENNOCK:

18 Q. In part?

19 A. No. Jay -- Jay Barrett was  
20 the head of purchasing -- or procurement,  
21 part of purchasing, but procurement,  
22 where you order the product versus where  
23 you're negotiating with vendors on price  
24 and stuff like that.

1                   So it appears that there was  
2   an order coming from Harvard, because  
3   they didn't have sales reps and stuff for  
4   Harvard, they would have dealt directly  
5   with our procurement department. And  
6   that's what I believe that is.

7                   There's so much behind this  
8   that I don't see here. But I -- you  
9   know, there had to have been a  
10   discussion. I truly would not have just  
11   written 200,000 and sent an e-mail.  
12   There was a conversation about this in  
13   person.

14                Q.     Because he says, Jay is  
15   working on getting an Oxy order for 288  
16   pieces of each strength, approximately  
17   115,000 doses.

18                A.     The math doesn't even seem  
19   to work for that, if it's 288 pieces of  
20   each strength. There's only four  
21   strengths. So I don't know totally what  
22   that means.

23                Q.     Well, at least we can --  
24   your interpretation is that Harvard

1       wanted to buy 115,000 doses?

2               A.       Correct.

3               Q.       And you wrote back, 200,000,  
4       right?

5               A.       Correct. I don't recall why  
6       I wrote 200,000, though.

7               Q.       You knew -- you knew and  
8       were friends with someone at Harvard,  
9       weren't you?

10              A.       Yes.

11              Q.       Terry Hass, was he one of  
12       the guys? Or who were you friends with  
13       there?

14              A.       Actually, ironically, his  
15       name is Jay; it's Jay Levine, though.

16                      And back in 2007, Terry Hass  
17       wasn't there yet. So it would still be  
18       Jay Levine.

19                              -   -   -

20                              (Whereupon, Anda-Paonessa

21                              Exhibit-8,

22                              Anda\_Opioids\_MDL\_0000258572, was  
23                              marked for identification.)

24                              -   -   -

1 BY MR. PENNOCK:

2 Q. Let me show you Exhibit-8.

3 It's a little confusing.

4 MR. PENNOCK: Exhibit-7, by  
5 the way, if I didn't read it, was  
6 0000258573.

7 Exhibit-8 is 0000258572.

8 BY MR. PENNOCK:

9 Q. So we have -- this is  
10 another e-mail thread, right? It's  
11 different than the one I just showed you  
12 in Exhibit-7, isn't it?

13 A. Correct.

14 Q. But it's on the same date,  
15 November 9th.

16 Do you see that?

17 A. Yes.

18 Q. So the one we just looked  
19 at, Cochrane e-mailed you at 9:18 a.m.,  
20 What do you want to increase Harvard to?

21 And you wrote back at 2:23  
22 p.m., 200,000.

23 Right?

24 A. Correct.



1 Q. Now we look at Exhibit-8  
2 from the same day, and Cochrane e-mails  
3 you at 10:00 a.m. This time he includes  
4 Kim Bloom.

5 She was in sales, right?

6 A. Yes.

7 Q. And he includes Jay Barrett,  
8 who you referred to earlier. He wasn't  
9 on the other e-mail we looked at.

10 Do you see that?

11 A. Yes.

12 Q. It says, Subject: Approval.  
13 Al, I need your approval to change the  
14 monthly dosage limit percentage on the

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 Do you see that?

19 A. Yes.

20 Q. And at 3:05 p.m. you wrote,  
21 Approved.

22 Right?

23 A. Yes.

24 Q. This is the second time. I

1 mean, you approved -- you approved it --  
2 you approved it at 2:23 p.m., you said  
3 200,000 -- well, you said 200,000, right?

4 A. Correct.

5 Q. And then -- but he had  
6 previously written to you 200,000 earlier  
7 that day?

8 MS. KOSKI: Object to form.

9 BY MR. PENNOCK:

10 Q. Do you see that?

11 A. Okay. Yes.

12 Q. So can you explain to me  
13 what transpired here? I mean, you're --

14 A. What I believe transpired  
15 here is that we had the discussion about  
16 it, I agreed to it. I had -- I had  
17 responded to this e-mail before I  
18 responded to the second e-mail.

19 So in the earlier e-mail,  
20 because we were verbally talking to each  
21 other, I had said, you know, that we  
22 would do 200,000. And I responded to  
23 that later in the afternoon.

24 He had already -- because he

1     knew I was already going to agree to  
2     200,000, he had sent this, at 10:00 a.m.,  
3     to me, because this was really the  
4     official one that we used for approvals.

5                     So that's when he sent it to  
6     me. But I didn't approve -- I must have  
7     responded to that one and he probably  
8     came and told me. Because, again, we're  
9     across the hall, you got to respond to  
10    the other one, which is the one that we  
11    use in our files.

12                    So I did end up responding  
13    to his second e-mail that came, you know,  
14    40 minutes later.

15    [REDACTED]  
16    [REDACTED]

17    month?

18                    A.     Yes.

19                    Q.     And that's a massive amount,  
20    isn't it?

21                    MS. KOSKI: Object to form.

22                    THE WITNESS: I don't  
23    believe it's a massive amount for  
24    a wholesaler his size, no.

1 BY MR. PENNOCK:

2 Q. Really?

3 MS. KOSKI: I didn't hear  
4 you say something, but then  
5 there's an indication on the  
6 transcript that you said "really."

7 Did you ask that question?  
8 Or was that just -- is there  
9 something pending?

10 MR. PENNOCK: I may have  
11 said that. This entire case blows  
12 my mind.

13 MS. KOSKI: Move to strike  
14 the colloquy.

15 MR. PENNOCK: Well, we'll  
16 get to another aspect of that.

17 BY MR. PENNOCK:

18 Q. Whether it's a massive  
19 amount for a wholesaler that size or not,  
20 you agree with me that 200,000 units is  
21 not something to joke about --

22 MS. KOSKI: Object to form.

23 BY MR. PENNOCK:

24 Q. -- right?

1           A.       I agree.

2                               -   -   -

3                               (Whereupon, Anda-Paonessa  
4       Exhibit-9,  
5       Anda\_Opioids\_MDL\_0000091168-176,  
6       was marked for identification.)

7                               -   -   -

8       BY MR. PENNOCK:

9           Q.       Let me show you what's been  
10      marked as Exhibit-9 to your deposition.

11                       MS. KOSKI: Thank you.

12                       He wants to know if you want  
13      him to read the entire article?

14                       THE WITNESS: I know what --  
15      I know what --

16                       MR. PENNOCK: I'm happy to  
17      direct you to portions, and then  
18      you can read whatever you'd like  
19      after I do that.

20                       MS. KOSKI: If you have  
21      questions like that, if you direct  
22      that to him, it's better than  
23      directing it to me.

24                       THE WITNESS: Okay.

1 BY MR. PENNOCK:

2 Q. I've marked as Exhibit-9 to  
3 your deposition. The Bates number --  
4 it's an e-mail with an attachment. It's  
5 Bates number 0000091168.

6 So what we have here is,  
7 it's an e-mail that -- it's a little  
8 tough to follow this thread, but  
9 someone -- there we go.

10 David Liming, do you know  
11 who that is?

12 A. No.

13 Q. David Liming sent an  
14 e-mail -- well, it's very hard to follow  
15 in the manner it was produced.

16 But it says to David Liming,  
17 Oxy and Harvard. Thanks, Dave. It is a  
18 great pleasure to be mentioned in the  
19 same article as two convicted felons. Be  
20 well, TH.

21 TH is Terry Hass, right?

22 Right?

23 A. Yes.

24 Q. And you know who he is?

1 A. Yes.

2 Q. You didn't know Liming, but  
3 you knew him, right?

4 A. Yes.

5 Q. And this e-mail thread is in  
6 June of 2012, right?

7 A. Yes.

8 Q. And then Terry Hass --  
9 sorry, David Liming responds back to  
10 Terry Hass -- both of them worked at the  
11 Harvard Drug Group, right?

12 A. Yes.

13 Q. And he responds back, Now,  
14 that is funny. You made my day.

15 Do you see that?

16 A. Yes.

17 Q. And then Terry forwarded the  
18 thread and the attachment to you?

19 A. Yes.

20 Q. And the attachment that  
21 Terry sent to you is a Business Week  
22 article entitled, American Pain, the  
23 Largest U.S. Pill Mill's Rise and Fall.

24 Do you see that?

1           A.       Yes.

2           Q.       And this article, I won't  
3       get into too much detail, but it talks  
4       about -- it specifically mentions, it  
5       says, George says --

6                   MS. KOSKI:   Where are you?

7           I'm just trying to follow along  
8       where you are.

9                   MR. PENNOCK:   Sorry, Page 5.

10       BY MR. PENNOCK:

11           Q.       It said, quote, in the  
12       article it says, George says that as his  
13       business in Florida expanded, he  
14       struggled to buy enough opioids to keep  
15       up with the demand. His stable of almost  
16       a dozen wholesalers ranged from tiny  
17       local operations, such as Medical Arts  
18       Pharmacy in St. Petersburg, to a couple  
19       of national distributors, including  
20       Harvard Drug Group based in Livonia,  
21       Michigan, one of the ten largest  
22       wholesalers of generic drugs in the  
23       country.

24                   Do you see that statement?



1 A. Yes.

2 Q. And that's the very company

3 [REDACTED]  
4 sale to about four years earlier, right?

5 A. Yes.

6 Q. And about -- and, sir, about  
7 two and-a-half years after you approved

8 [REDACTED]  
9 suspended their license to distribute  
10 controlled substances, didn't they, in  
11 June of 2010?

12 A. Yes.

13 MS. KOSKI: Object to form.

14 BY MR. PENNOCK:

15 Q. And, now, having received  
16 this article -- withdrawn.

17 Did you know, before you  
18 received this article, that Harvard was a  
19 major supplier of one of America's  
20 largest pill mills?

21 MS. KOSKI: Object to form.

22 THE WITNESS: No.

23 BY MR. PENNOCK:

24 Q. Well, when you saw that back

1 in 2012, knowing that you had been  
2 selling to Harvard a lot of opioids, did  
3 it disturb you that you had been  
4 providing opioids that may have been  
5 diverted to America's largest pill mill?

6 MS. KOSKI: Object to form.

7 Assumes facts not in evidence.

8 THE WITNESS: Yes.

9 BY MR. PENNOCK:

10 Q. Did it disturb you that  
11 these guys were joking around about this?

12 MS. KOSKI: Object to form.

13 THE WITNESS: I don't -- I  
14 don't recall this e-mail at all.

15 BY MR. PENNOCK:

16 Q. Were you paying attention to  
17 anything that was going on?

18 MS. KOSKI: Object to form.

19 BY MR. PENNOCK:

20 Q. With respect to opioids and  
21 their distribution and diversion at that  
22 time?

23 MS. KOSKI: Object to form.

24 You don't need to answer that.

1                   That's inappropriate.

2                   You can ask a question and  
3                   answer.

4                   MR. PENNOCK: I'm asking  
5                   him.

6 BY MR. PENNOCK:

7                   Q.       What do you feel that you  
8                   were paying the most attention to with  
9                   regard to the distribution and potential  
10                  diversion of opioids at that time?

11                  MS. KOSKI: Object to form.  
12                  What time?

13                  MR. PENNOCK: June of 2012.

14                  THE WITNESS: I don't  
15                  remember exactly when I stopped  
16                  selling Harvard, but it was well  
17                  before that. Harvard would have  
18                  probably been stopped in 2009 or  
19                  '10. So, I mean, I'm not sure of  
20                  the exact dates, but they lost  
21                  their license in '10, correct?

22                  So -- and I -- so it's a  
23                  great article about what happened.  
24                  I explained to my guys, this is

1           why we got out of the selling --  
2           we stopped, ourselves, well before  
3           Harvard lost their license of  
4           selling to physicians.

5           Proactively, on our own, we did  
6           that.

7   BY MR. PENNOCK:

8           Q.     I see they were very upset  
9           with you about that, since they're  
10          sending you this article two years later.

11                 MS. KOSKI: Object to form.

12                 THE WITNESS: They were  
13           making fun of the previous owners,  
14           is what they were doing.

15   BY MR. PENNOCK:

16           Q.     You agree with me that it's  
17           likely that some of the opioids that you  
18           sold to Harvard did end up in diversion  
19           through at least this -- this group that  
20           was the subject of this article, right?

21                 MS. KOSKI: Object to form.

22                 Calls for speculation.

23                 You can answer that if you  
24           can possibly know it.

1 THE WITNESS: It's possible.

2 BY MR. PENNOCK:

3 Q. It's likely?

4 MS. KOSKI: Object to form.

5 THE WITNESS: It's possible.

6 MR. PENNOCK: Why don't we  
7 take a quick break?

8 VIDEO TECHNICIAN: Going off  
9 record. The time is 11:21.

10                                  -        -        -

11                   (Whereupon, a brief recess  
12                   was taken.)

13

14 VIDEO TECHNICIAN: We are  
15 going back on record. Beginning  
16 of Media File Number 2. The time  
17 is 11:35.

18 BY MR. PENNOCK:

■ [REDACTED]

■ [REDACTED]

3 Q. Is that where you grew up?

4 A. Yes.

5 Q. Did you see this news report  
6 on -- take a look at this, marked as  
7 Exhibit-10 to your deposition.

8 - - -

9 (Whereupon, Anda-Paonessa  
10 Exhibit-10, PBS.org; Understanding  
11 the Opioid Epidemic, Michael?s  
12 Story, was marked for  
13 identification.)

14 - - -

15 MS. KOSKI: You might have  
16 given me your -- there's a  
17 handwritten note on this. I don't  
18 know if there's more.

19 MR. PENNOCK: It's just my  
20 10.

21 BY MR. PENNOCK:

22 Q. I'm just wondering, is  
23 that -- because you're from this area,  
24 did you ever see this news report?

1           A.       No.

2           Q.       Have you seen news reports  
3   regarding opioid deaths in the United  
4   States --

5           A.       Yes.

6           Q.       -- individuals and so forth?

7                   MS. KOSKI: Let him finish  
8   his question.

9                   THE WITNESS: Yes.

10   BY MR. PENNOCK:

11           Q.       At one point, in April of  
12   2009, you were sent something -- well,  
13   you probably don't recall. I'll show it  
14   to you.

15                   -   -   -

16                   (Whereupon, Anda-Paonessa  
17   Exhibit-11,  
18   Allergan\_MDL\_01030377-3738, was  
19   marked for identification.)

20                   -   -   -

21   BY MR. PENNOCK:

22           Q.       This is Exhibit-11 to your  
23   deposition is an e-mail that was sent to  
24   you, Michael Cochrane, Patrick Cochrane,

1 from Tracey Hernandez at Watson. It  
2 bears Bates number Allergan\_MDL\_01033 --  
3 I'll start again --  
4 Allergan\_MDL\_01030377. That's  
5 Exhibit-11.

6 A. Okay.

7 Q. So Watson was essentially  
8 the company that owned you, right?

9 A. Yes.

10 Q. Meaning owned Anda.

11 And this e-mail was sent in  
12 April 2009 to a number of people,  
13 including you, right?

14 A. Yes.

15 Q. And she's reporting to you  
16 about a rule, a new rule that had been  
17 published concerning marketing, right?

18 MS. KOSKI: Object to form.

19 THE WITNESS: That's what it  
20 says there, yes.

21 BY MR. PENNOCK:

22 Q. And she's also referencing  
23 a -- she's referencing a new law  
24 regarding what's called The Ryan Haight



1 Act.

2 Do you see that?

3 A. Yes, it's there. Yes.

4 Q. And it's -- the new law is  
5 trying to -- or making an effort to help  
6 prevent use of the Internet to advertise  
7 the sale of or offer to sell, distribute  
8 or dispense a controlled substance,  
9 right?

10 MS. KOSKI: You're asking  
11 him if that's what the document  
12 says?

13 BY MR. PENNOCK:

14 Q. Do you see where --

15 MR. PENNOCK: Yes.

16 BY MR. PENNOCK:

17 Q. Is that what the document  
18 says?

19 A. That's what I'm reading,  
20 yes.

21 Q. All right. And did she --  
22 was she above you, Tracey Hernandez?

23 MS. KOSKI: Object to form.

24 BY MR. PENNOCK:

1 Q. In other words, was she sort  
2 of one of your people that were higher up  
3 than you, because she's at Watson?

4 No?

5 A. No, I don't believe so.

6 Q. In any event, she makes a  
7 statement in here that there should be a  
8 review of your marketing efforts.

9 Do you see that?

10 A. Yes.

11 Q. Now, Anda did promote  
12 opioids, didn't they?

13 A. Yes.

14 Q. I'd like to go through some  
15 of that with you.

16 - - -

17 (Whereupon, Anda-Paonessa  
18 Exhibit-12,  
19 Anda\_Opioids\_MDL\_0000611326-327,  
20 was marked for identification.)

21 - - -

22 MS. KOSKI: Thank you.

23 BY MR. PENNOCK:

24 Q. Exhibit-12 to your

1 deposition is

2 Anda\_Opioids\_MDL\_0000611326.

3 A. Okay.

4 Q. This is an e-mail where it  
5 is being proposed for approval -- well,  
6 first, let me start.

7 This is in -- this is in  
8 April of 2007, right?

9 A. Yes.

10 Q. True?

11 A. Yes.

12 Q. And it's the spring promo  
13 2007?

14 A. Yes.

15 Q. And it's to you and Brian  
16 Witte, who was in sales, Witte?

17 A. In 2007, he would have  
18 been -- I believe he was in operation --  
19 sales operations, yes.

20 Q. It says, Al, per our  
21 discussion, please approve/offer feedback  
22 on the spring promo format.

23 Do you see that statement?

24 A. Yes.

1           Q.     You should know that Jay and  
2     his team are getting buy-in or sales-out  
3     promos as best they can, too, in  
4     conjunction with this.

5                     Do you see that statement?

6           A.     Yes.

7           Q.     We added a 1.25 times tier  
8     for 5 percent and a 1.5 times tier for 6  
9     percent.

10                    Right? Do you see that?

11          A.     Yes, that's what it says.

12          Q.     Brian, confirm dating,  
13     please.

14                    Do you see that statement?

15          A.     Yes.

16          Q.     That refers to giving  
17     buyers, like, lines of credit, right?

18          A.     No.

19                    MS. KOSKI: Object to form.

20     BY MR. PENNOCK:

21          Q.     Doesn't that -- that doesn't  
22     refer to giving them, like, time to pay  
23     you, like, 30 days or 60 days?

24          A.     I believe that this is the

1     buy side from us from manufacturers  
2     they're talking about, not the sale to  
3     the customer.

4             Q.     Okay. In any event, the  
5     actual promo is on the next page.

6             A.     Correct.

7             Q.     And it says that -- it goes  
8     on to indicate the different discounts  
9     that you're going to offer for your  
10    products, right?

11            A.     Yes.

12            Q.     And that includes C-II  
13    items, true?

14            A.     Yes.

15            Q.     And C-II items included  
16    opioids, right?

17            A.     Yes.

18            Q.     And you were going to give 5  
19    percent off minimum order of 1.25 times  
20    the average C-II purchases on generic  
21    items.

22                    Do you see that?

23            A.     Yes.

24            Q.     So that means that if their

1 average had been -- whatever their  
2 average was, if they ordered 25 percent  
3 more than their average, you would give 5  
4 point -- you would give 5 percent off?

5 A. Yes.

6 Q. And, again, what is the 60  
7 days dating? What does that mean?

8 A. So there was extended dating  
9 of when the customer had to pay, yes.

10 Q. So you were giving -- so you  
11 were giving them time to pay; order now,  
12 pay later?

13 A. Yes.

14 Q. Right?

15 A. Yes.

16 Q. 90 days -- if they went up  
17 to 50 percent more than their average  
18 C-II purchases, generic items only, you  
19 would give them 6 percent off and 90 days  
20 to pay?

21 A. That's what it says, yes.

22 Q. What kind of discussion did  
23 you have about doing promotionals like  
24 this for controlled substances?

1 MS. KOSKI: Object to form.

2 THE WITNESS: You're going  
3 back to early, you know, 2000 --  
4 late 2006, these discussions would  
5 have happened. And at that point,  
6 you know, we weren't -- it wasn't  
7 the same environment that it is  
8 today, or even 2009, '10, '11.

9 So we weren't afraid at that  
10 point to, you know, do an overall  
11 spring promotion that included  
12 C-IIs. It wasn't a spring  
13 promotion for C-IIs, it just  
14 happened to be that C-IIs were  
15 part of it.

16 - - -

17 (Whereupon, Anda-Paonessa  
18 Exhibit-13,  
19 Anda\_Opioids\_MDL\_0000108236-243,  
20 was marked for identification.)

21 - - -

22 BY MR. PENNOCK:

23 Q. I'm going to show you Bates  
24 number Anda\_Opioids\_MDL\_0000108236, is

1 the initial Bates number. It ends in  
2 243. The Bates got cut off in the  
3 photocopy. Just take a moment and look  
4 at that.

5 A. Okay.

6 Q. So this is a -- this  
7 document, Exhibit --

8 MR. PENNOCK: What Exhibit  
9 number is this?

10 MS. KOSKI: 13.

11 MR. PENNOCK: 13.

12 Exhibit-13.

13 BY MR. PENNOCK:

14 Q. So let's take a look at  
15 Exhibit-13.

16 This is Anda C-II product  
17 listing, right?

18 A. Yes.

19 Q. Your source for Class II  
20 generic and branded controlled substance  
21 products.

22 Right?

23 A. Yes.

24 Q. This is something that you



1     would send out to potential customers,  
2     right?

3             A.     Yes.

4             Q.     And the first page --

5             A.     No, I take -- I recall that  
6     statement.

7                     This was what we would have  
8     sent to current customers.

9             Q.     To current customers?

10            A.     Current customers.

11            Q.     Okay. And -- meaning people  
12     that were currently buying something from  
13     you, whatever it was?

14            A.     Whatever; controls, not  
15     controls.

16            Q.     So I just -- I'd like to go  
17     over this.

18                     First of all -- well, I'll  
19     come back to that.

20                     Ordering C-IIs from Anda is  
21     easier than ever.

22                     Right? Do you see that?

23            A.     Yes.

24            Q.     Did you approve this?

1 A. Yes.

2 Q. Two quick and convenient  
3 steps to schedule a paper 222 form  
4 pickup.

5 So this is talking about,  
6 we'll get you the form so that you can  
7 buy C-IIs, and then we'll even pick it up  
8 and bring it back to us so we can process  
9 the order, right?

10 A. Yes.

11 Q. And it goes on to describe  
12 the two easy steps.

13 Fill out your paper 222  
14 form. And then Number 2, Schedule a  
15 pickup online or call for sales  
16 representative.

17 A. Correct.

18 Q. It gives you a little how to  
19 do it and so forth, right?

20 And reminds you, you can  
21 always call Fed Ex directly to schedule a  
22 pick up if you have the pre-addressed Fed  
23 Ex envelope from Anda/VIP.

24 Do you see that statement?

1 A. Yes.

2 Q. And, I mean, it's got these  
3 other things here. Goodbye paper, as  
4 always, you can eliminate paper 222 forms  
5 and get live on CSOS, controlled  
6 substances ordering system, right?

7 A. Yes.

8 Q. That was the Anda system  
9 that your customers could use?

10 A. It was an -- all  
11 distributors had that system.

12 Q. You had it?

13 A. Yes. We worked closely with  
14 the DEA to develop some of it ourselves.

15 Q. Now offering a full line of  
16 brand and generic C-II products.

17 Do you see that statement?

18 A. Yes.

19 Q. So this would go out to  
20 existing customers, and then you would  
21 actually give them the list of what you  
22 had stocked?

23 A. Yes.

24 Q. And I -- this highlighting

1 is mine, of course, it's not on yours.

2 But first we have -- so I've  
3 highlighted all the C-IIs that are  
4 involved in this case.

5 You'll see fentanyl, right?

6 A. Yes.

7 Q. And then oxycodone with  
8 ibuprofen. You've got hydromorphone down  
9 here. There's the oxycodone/ibuprofen.

10 All these that are all on  
11 this list. This is morphine -- you've  
12 got fentanyl, morphine, oxycodone with  
13 acetaminophen, the Tylenol, right, APAP?

14 A. Yes.

15 Q. It goes on.

16 So you would agree with me  
17 that we look at these listings, start  
18 with the generics, that -- I did a  
19 calculation. I'll tell you that 78.33  
20 percent of the drugs listed are either  
21 fentanyl or an opioid.

22 Does that seem about right  
23 to you?

24 MS. KOSKI: Object to form.

1 THE WITNESS: Yes.

2 BY MR. PENNOCK:

3 Q. So what was the purpose of  
4 this?

5 A. We were a full-line  
6 distributor at that point, carrying all  
7 C-IIIs. Most C-IIIs were opioids, but we  
8 carried all C-IIIs, Adderall, demerol,  
9 Dilaudid, Dolophine. They were all  
10 carried. We carried every one.

11 We were a secondary to  
12 pharmacies around the country. And we  
13 carried every item, every generic item.  
14 And then we started to carry the brand  
15 items also, because we became a secondary  
16 for chains, too, around the country.

17 Q. What was the -- okay. But  
18 what was the purpose of sending this out  
19 with these --

20 A. We were an alternative --

21 Q. -- instructions?

22 A. We were an alternative  
23 source. And one of the -- we did want to  
24 make -- it was more difficult for a

1 pharmacy to, you know, go to Fed Ex on  
2 their own, pick up their own slip, pay  
3 for it on their own.

4 So we made it simpler for  
5 them than to hand it to our competitor,  
6 which would have been the big three  
7 wholesalers.

8 And then --

9 Q. Why did you want to make it  
10 simpler for them to order these -- in  
11 particular, these opioids and fentanyl?

12 A. I gave them an opportunity  
13 to buy it from somebody else, which was  
14 me.

15 Q. I'm sorry? You did what? I  
16 didn't understand your answer.

17 A. I was one of the many  
18 competitors that sold C-IIs, and I just  
19 made it easier for my customers,  
20 business-wise on their side.

21 Q. This is -- the date that I  
22 found on here says, Updated January 2010.

23 A. Okay.

24 Q. Do you see that?

1 A. Yes.

2 Q. Earlier, a few minutes ago,  
3 you mentioned that the environment in  
4 2006 was -- you weren't as afraid as you  
5 were, because the environment changed in  
6 2009, 2010, 2011.

7 Do you remember saying that?

8 A. Yes, I do.

9 Q. So by January 2010, whatever  
10 you perceived the environment to be in  
11 2007, it certainly had changed in terms  
12 of the opioid issue in America, hadn't  
13 it?

14 MS. KOSKI: Object to form.

15 THE WITNESS: Yes.

16 BY MR. PENNOCK:

17 Q. And did anyone, including  
18 you, sit back and say, maybe we shouldn't  
19 make it easier for people to buy these  
20 opioids; maybe we should make it harder  
21 for them to do so?

22 A. We did make it harder. They  
23 couldn't just buy it because I had it.  
24 We made it harder for them to order it

1 based on our due diligence that we did.

2 Using us as a supplier and  
3 making it easier for them to buy from us,  
4 yes, we did that. We converted to CSOS  
5 also, which was very important to the  
6 DEA, because they gave them better  
7 visibility into it. So we did that.

8 But nothing changed of how  
9 we looked at people in 2010 -- I mean, it  
10 changed of how we looked at it. It was  
11 much more stringent and harder than it  
12 was in 2006 and '07 to buy from us.

13 Just because I had the  
14 products and gave them an easier way to  
15 mail me a form did not make it easier for  
16 them to acquire the product from me.

17 Q. You just said that you were  
18 doing this to make it easier for them;  
19 you just said that.

20 A. To mail in their form,  
21 that's what I said.

22 Q. Make it easier to get the  
23 product?

24 A. It didn't make it easier to



1 get 5,000 tablets or more, no. That's  
2 not what I said.

3 I said it was easier for  
4 them to order, not to get more product.

5 Q. Right. So did you ever sit  
6 back and say, maybe we shouldn't make it  
7 so easy for them to order?

8 MS. KOSKI: Object to form.

9 THE WITNESS: I didn't -- I  
10 don't think about it in the  
11 context that you're conveying now,  
12 no.

13 - - -

14 (Whereupon, Anda-Paonessa  
15 Exhibit-14,  
16 Anda\_Opioids\_MDL\_0000109074-073,  
17 was marked for identification.)

18 - - -

19 (Whereupon, a discussion off  
20 the record occurred.)

21 - - -

22 BY MR. PENNOCK:

23 Q. Allow me to show you,  
24 please, Exhibit-14 to your deposition.

1     Anda\_Opioids\_MDL\_00000109074.   I'd like  
2     to show you 073 followed by 074.

3             A.     Okay.

4             Q.     So this is another promotion  
5     that you sent out, right?

6             A.     Yes.

7             Q.     This, apparently, is -- this  
8     is a promotion to have your customers  
9     participate in the controlled substances  
10    ordering system online?

11            A.     Yes.

12            Q.     And if they did so, they  
13    would get 10 percent off generic C-II  
14    items on their first CSOS order.

15            A.     Correct.

16            Q.     And the second page lists  
17    the top C-II products available through  
18    Anda.

19                    Do you see that?

20            A.     Yes.

21            Q.     And there's Concerta and  
22    then it has OxyContin, generic Actiq --  
23    that's a fentanyl product, right?

24            A.     Yes.

1           Q.     Generic codeine sulfate.  
2     Generic Dolophine.   Generic Roxicodone.  
3     Generic Percocet.   Generic MSIR.   Generic  
4     MS-Contin.   Generic Duragesic.

5                   Do you see each of those  
6     listed on this?

7           A.     Yes.

8           Q.     Are you ready for CSOS?

9                   Do you see that?

10          A.     CSOS, they call it.

11          Q.     CSOS.

12                   Of all the controlled  
13     substances you were talking about a few  
14     minutes ago that you sold -- let's see,  
15     one, two, three, four, five, six, seven,  
16     eight, nine, ten, eleven, twelve -- ten  
17     of the -- I'm sorry, nine of the twelve  
18     that you put on were either fentanyl or  
19     an OxyContin on this sheet.

20                   MS. KOSKI:   Object to form.

21                   THE WITNESS:   I don't  
22     remember what our entire list of  
23     C-IIIs by brand names were, so --  
24     on what you're showing me, yes,

1           it's nine out of twelve.

2                               -   -   -

3                       (Whereupon, Anda-Paonessa  
4           Exhibit-15, Anda; Back in Stock  
5           and Last Chance Flyer, was marked  
6           for identification.)

7                               -   -   -

8   BY MR. PENNOCK:

9           Q.     I'm going to show you  
10   Anda\_Opioids\_MDL\_0000111235.

11          A.     Okay.

12          Q.     It's another document --  
13   another promotion that you sent out to  
14   customers, right?

15          A.     Yes.

16                   When is it from?

17          Q.     Hmm?

18          A.     When is it from?

19          Q.     Do you know when --

20          A.     What time period?

21          Q.     -- it's from?

22          A.     No.

23          Q.     What does -- do you have an  
24   idea of when this might be from?

1           A.       No. I would think it would  
2   be -- well, they have CSOS too, so it  
3   would be early, it would still be early  
4   on trying to get people to use CSOS.

5           Q.       "Early on" such as when?  
6   Like, what do you mean by "early on"?

7           A.       '07, '08. 2007, 2008.

8                   MS. KOSKI: This is probably  
9                   attached to an e-mail, no, that  
10                  has a date on it?

11                  MR. PENNOCK: No.

12                  Do you have a date on this  
13                  document?

14                  MR. KENNEDY: February 23,  
15                  2011.

16                  MR. PENNOCK: Where are you  
17                  getting this from?

18                  MR. KENNEDY: From  
19                  Relativity. From the metadata.

20                  MR. PENNOCK: The  
21                  metadata -- I'll represent to you,  
22                  sir, that the metadata says  
23                  February 23, 2011.

24                  THE WITNESS: Okay.

1 BY MR. PENNOCK:

2 Q. Does that seem like a  
3 reasonable date to you for this?

4 MS. KOSKI: Can we go off  
5 for a second?

6 MR. PENNOCK: Sure.

7 VIDEO TECHNICIAN: Going off  
8 record. The time is 12:04.

9 - - -

10 (Whereupon, a brief recess  
11 was taken.)

12 - - -

13 VIDEO TECHNICIAN: Going  
14 back on the record. Beginning of  
15 Media File Number 3. The time is  
16 12:05.

17 BY MR. PENNOCK:

18 Q. Mr. Paonessa, you indicated  
19 this was probably earlier, like 2009,  
20 based on this number here, S/D 10/09,  
21 right?

22 A. Yes.

23 Q. And I think you are saying  
24 that's an expiration date?

1           A.       Yes.   And we wouldn't sell  
2   an item that was six months prior to  
3   that.   So the lowest one there is '10, so  
4   this would have gone out in early '09 or  
5   late '08.

6           Q.       So at that time -- I mean,  
7   this is what I wanted to draw your  
8   attention to, Last chance.

9                    Do you see that?

10          A.       That's what's written there.

11          Q.       That's -- do you -- as you  
12   sit here today looking at that, is it  
13   your view that that was an appropriate  
14   way to market these medications?

15                   MS. KOSKI:   Object to form.

16                   THE WITNESS:   I have no  
17   opinion.   I'm selling to a  
18   pharmacist, not the public.   So  
19   this was --

20   BY MR. PENNOCK:

21          Q.       It certainly looks like --

22          A.       -- this was stuff I had left  
23   in stock.   So, I mean, last chance -- I  
24   don't have an issue with that, that word,

1 in the context of how we used it. So --

2 Q. Well, you're trying to get a  
3 pharmacist to buy product from you,  
4 right?

5 A. Yes.

6 Q. And if you don't -- if they  
7 don't buy that product before the  
8 expiration date, I think you said that  
9 would mean you'd have to dispose of the  
10 product?

11 MS. KOSKI: Object to form.

12 THE WITNESS: Yes.

13 - - -

14 (Whereupon, Anda-Paonessa  
15 Exhibit-16, Sales Flyer; Are you  
16 Promoting All of These, was marked  
17 for identification.)

18 - - -

19 BY MR. PENNOCK:

20 Q. Let me show you Exhibit-16.  
21 This is Anda\_Opioids\_MDL\_0000611426.

22 A. Okay.

23 Q. This is something you  
24 sent -- it looks like you sent it out



1 internally to your own salespeople, is  
2 that --

3 A. Yes.

4 Q. -- what this is?

5 Are you promoting all of  
6 these, it says.

7 Do you see that? Right?

8 A. Yes, yes.

9 Q. When was the last time you  
10 sent flyers to your customers using  
11 Remedy marketing materials?

12 MS. KOSKI: Object to form.

13 BY MR. PENNOCK:

14 Q. Do you see that statement?

15 A. No.

16 Oh, at --

17 Q. It's right here.

18 A. -- the top. Okay.

19 Q. When was the last time you  
20 sent flyers to your customers using  
21 Remedy marketing materials?

22 A. Okay. Yes.

23 Q. And so this went to your  
24 salespeople to sort of inspire them to

1       move product; is that right?

2               A.       To mention to our customers  
3       that we have products, yes.

4               Q.       And it says, Watson  
5       products.

6                       Do you see what it says  
7       here?

8               A.       Yes.

9               Q.       Watson products brand,  
10       OxyContin OR 10 milligrams, 20  
11       milligrams, 40 milligrams, 80 milligrams,  
12       right?

13              A.       Yes.

14              Q.       So you're telling your  
15       salespeople, don't forget about trying to  
16       sell these products, right?

17              A.       All of these products on the  
18       page, yes.

19              Q.       All the products on the  
20       page?

21              A.       All of them, yes.

22                       This is 2007.

23                       MS. KOSKI: Wait for a  
24       question.

1 - - -

2 (Whereupon, Anda-Paonessa  
3 Exhibit-17, Anda; Oxycodone 5%  
4 Off, was marked for  
5 identification.)

6 - - -

7 BY MR. PENNOCK:

8 Q. Exhibit-17 bears Bates  
9 number Anda\_Opioids\_MDL\_0000611413.

10 A. Yes.

11 Q. What is this document?

12 A. It is -- I would assume it  
13 was something on the Internet, our own  
14 Anda net or VIP Pharm, or it could have  
15 possibly been something that they could  
16 put into a box if a customer requested  
17 information on this item.

18 Again, it's early --

19 Q. February -- it expires the  
20 end of February 2007.

21 A. Right. So this would have  
22 been done in January or February of 2007.

23 Q. Was it the belief, inside of  
24 Anda, that these types of promotional

1     efforts would help to increase your sales  
2     of opioids?

3             A.     We had no -- we had no  
4     program or goal whatsoever to sell  
5     opioids as a goal. We sold all products;  
6     C-II, non-C-II, OTC, vitamins.

7             Q.     You didn't have any  
8     program -- you didn't have any goal to  
9     sell opioids of any kind?

10            A.     No. Absolutely no goal to  
11     sell opioids as a goal within our  
12     organization.

13            Q.     Well, it was a goal to sell  
14     all your products?

15            A.     All our products.

16            Q.     So if one of those products  
17     was Adderall, you had a goal to sell  
18     Adderall, right?

19            A.     We -- well, I would --  
20     there's no -- I truly believe that  
21     there's no program that we had internally  
22     that I could find that I awarded people  
23     for selling an opioid within our  
24     organization. You know, I would be upset

1 with myself if I saw that now.

2 Q. But you certainly were  
3 making efforts to increase your sales of  
4 opioids throughout these years.

5 We've seen some evidence of  
6 that already, haven't we?

7 A. There was hundreds of these  
8 type of things for all products that we  
9 had that went out all the time, not just  
10 opioids.

11 Q. But in addition to that, I  
12 mean, do you remember we looked early on  
13 in the day at a request you made to your  
14 boss that you wanted to buy about \$8  
15 million in Oxy?

16 A. Yes.

17 Q. Your goal was to get that  
18 Oxy and then to sell it, right?

19 A. Yes. I sent the same type  
20 of request when I requested almost \$130  
21 million of Protonics.

22 Q. But Protonics hasn't killed  
23 a quarter million people in the United  
24 States, has it?

1 MS. KOSKI: Object to form.  
2 Lacks foundation.

3 - - -

4 (Whereupon, Anda-Paonessa  
5 Exhibit-18,  
6 Anda\_Opioids\_MDL\_0000610161, was  
7 marked for identification.)

8 - - -

9 BY MR. PENNOCK:

10 Q. I've marked as Exhibit-18 to  
11 your deposition a document bearing Bates  
12 number 0000610161.

13 A. Okay.

14 Q. Brian Witte wrote an e-mail  
15 and you were cc'd, and it says, If it  
16 moves Dava, approved.

17 Right?

18 A. Correct.

19 Q. And you wrote back, Agree?

20 A. Yes.

21 Q. And Dava was a form of  
22 OxyContin, right? A licensed form of  
23 generic Oxy, right?

24 A. Yes.

1           Q.     Al/Brian, please  
2     considering -- please consider allowing  
3     us to offer 60 days dating to customers  
4     who order C-IIs for the first time, which  
5     we track, as well as those who order  
6     Dava/Oxy.

7                     This was the vice president  
8     of marketing, Mark Falkin?

9           A.     Yes.

10          Q.     So he's asking you and  
11     Brian, let us give customers 60 days to  
12     pay if they order C-IIs for the first  
13     time, as well as those that ordered Oxy,  
14     right?

15          A.     Yes.

16          Q.     Do you see that?

17                     And you don't -- you don't  
18     say -- you and Brian don't say anything  
19     about, if it moves all the other C-IIs,  
20     great. Or that's fine. You say, If it  
21     moves Dava, approved.

22          A.     Yes.

23          Q.     Yes.

24                     Because you and Anda were

1 interested, at every turn, on selling Oxy  
2 and as much Oxy as you could; isn't that  
3 right?

4 MS. KOSKI: Object to form.

5 THE WITNESS: No. Disagree.

6 MR. PENNOCK: I'm going to  
7 take a break. Lunch is coming.

8 MS. KOSKI: 12:30?

9 MR. PENNOCK: Oh, 12:30.

10 MS. KOSKI: Do you want to  
11 power through to 12:30?

12 MR. PENNOCK: We'll take a  
13 break right now.

14 VIDEO TECHNICIAN: Going off  
15 record. The time is 12:19.

16 - - -

17 (Whereupon, a luncheon  
18 recess was taken.)

19 - - -

20 VIDEO TECHNICIAN: We are  
21 back on record. This is the  
22 beginning of Media File Number 4.  
23 The time is 1:11.

24 BY MR. PENNOCK:



1           Q.     Mr. Paonessa, let me show  
2     you, please, what's been marked now as  
3     Exhibit-19 to your deposition.

4                     -   -   -

5                     (Whereupon, Anda-Paonessa  
6     Exhibit-19,  
7     Anda\_Opioids\_MDL\_0000610178-184,  
8     was marked for identification.)

9                     -   -   -

10    BY MR. PENNOCK:

11           Q.     This is a document, an  
12    e-mail chain, bearing Bates number  
13    0000610178.

14           A.     Okay.

15           Q.     Sir, this e-mail thread is  
16    back in -- starts in February 2007,  
17    right?

18           A.     Yes.

19           Q.     And so there's an e-mail  
20    from Tracy Paonessa -- is that somebody  
21    related to you?

22           A.     Yes. My sister.

23           Q.     Your sister.

24                     And she indicates that

1     there's a customer looking for an order  
2     90 days dating on \$30,000 controlled  
3     substances ordering system order. Can  
4     this be approved? This is for 90, not  
5     60.

6                     Do you see that?

7             A.     Yes.

8             Q.     So she's -- some customer  
9     has contacted her and wants, basically,  
10    90 days to pay on ordering some product,  
11    right?

12            A.     Yes.

13            Q.     And that product -- I'm  
14    sorry.

15                    So they have to check  
16    whether they're going to give them the 90  
17    days, right? You saw that in the  
18    e-mails?

19            A.     Yes.

20            Q.     A credit manager said the  
21    customer has sufficient credit and is in  
22    good standing, so they're going to give  
23    them the 90 days, right?

24            A.     Yes.

1           Q.     And then there is a further  
2     communication by Ms. Paonessa, where she  
3     indicates the order never -- this is a  
4     couple of weeks later.

5                     The order never went through  
6     for the \$30,000. Now they would like to  
7     place an order for \$75,000, also asking  
8     for the 90 days dating, right?

9                     Do you see that? This is  
10    Bates number 182.

11           A.     Okay, yes.

12           Q.     It is 200 bottles of Item  
13    Number 700654.

14                     What does that number relate  
15    to?

16           A.     Item number.

17           Q.     So, like, a particular --

18           A.     Sku.

19           Q.     Sku.

20                     So, like, a particular set  
21    of bottles?

22           A.     No one -- one individual  
23    type of bottle, yes. Just one.

24           Q.     One individual what?

1           A.     Bottle.

2           Q.     It says 200 bottles of Item  
3     Number 700654.

4           A.     Right.

5           Q.     So I'm just trying to  
6     understand what that means.

7           A.     It's one bottle. It's like  
8     ibuprofen 200 count or whatever, 40  
9     pieces, whatever. It's one item number,  
10    one individual unique sku.

11          Q.     So how do you get -- how do  
12    you get 200 bottles of one individual  
13    unique sku?

14          A.     I don't know what the sku  
15    is. I don't know if it's a 30 count, I  
16    don't know if it's 100 count. I have no  
17    idea.

18          Q.     I'm sorry --

19          A.     I don't know who the  
20    customer is either. I don't -- I have no  
21    idea who this is.

22          Q.     Okay. But -- oh, I see. So  
23    that's -- that number relates, actually,  
24    to 100-count bottles.

1           A.     Okay.

2           Q.     Is that -- you don't recall?  
3     You don't know?

4           A.     Well, I wouldn't know. I  
5     mean, we can -- somebody could look it up  
6     and let me know. I wouldn't deny the  
7     item itself, no.

8           Q.     Okay. So the e-mails  
9     continue, and the customer is faxing the  
10    credit application now.

11                   And it's now up to \$78,000,  
12    right?

13          A.     Yes.

14          Q.     And so it gets to the end,  
15    and there's an e-mail here from Randy  
16    Saal to Ms. Paonessa and others,  
17    including Brian Witte.

18                   And it says, Okay, we were  
19    able to get his bank account number with  
20    SunTrust Bank. Today is the last day he  
21    can purchase the Oxys by Watson, too.  
22    Let me know if you want me to call it  
23    down to you.

24                   Do you see that?

1 A. Yes.

2 Q. And the date of that e-mail  
3 is February 28th, 2007, right?

4 A. Yes.

5 Q. So somebody writes back --  
6 let's see here. Russel Durrett, credit  
7 manager, Go ahead and put the order  
8 through as this is approved along with  
9 the dating.

10 Right?

11 A. Yes.

12 Q. Okay. But for that to be  
13 approved, you would have had to have  
14 approved that, right?

15 MS. KOSKI: Object to form.

16 THE WITNESS: Your -- this  
17 is a credit approval request, it  
18 has nothing to do with the actual  
19 order itself. The order would  
20 have already been created or  
21 approved ahead of time, following  
22 the normal procedure of having the  
23 customer allowed to have that much  
24 of that product.

1 BY MR. PENNOCK:

2 Q. Okay. And the order -- Ms.  
3 Paonessa indicates the order went through  
4 on 2/28/07 --

5 A. Okay.

6 Q. -- right?

7 A. Yes.

8 Q. Okay.

9 MR. PENNOCK: I'm sorry,  
10 sir. I need to mark that as  
11 Exhibit-20.

12 Exhibit-20 of your  
13 deposition is a --

14 MS. KOSKI: Now you're  
15 testing my eyes.

16 MR. PENNOCK: -- Bates  
17 number 0000612614.

18 - - -

19 (Whereupon, Anda-Paonessa  
20 Exhibit-20,  
21 Anda\_Opioids\_MDL\_0000612614, was  
22 marked for identification.)

23 - - -

24 BY MR. PENNOCK:

1           Q.     I'm looking at the first  
2     e-mail on this document, and it's from  
3     senior director of sales and marketing,  
4     Watson is currently allocating oxycodone  
5     HCL ER in 10, 20, 40 and 80 milligram to  
6     its customers, including Anda. We want  
7     to ensure smooth customer supply, so  
8     we've established the 5 percent promotion  
9     to encourage customers to purchase an  
10    increased supply of product than their  
11    normal orders so that they would not  
12    experience inventory supply issues.

13                   Do you see that?

14           A.     Yes.

15           Q.     And the e-mail ultimately  
16    reaches you. And you reply, We need to  
17    move as much product out of our building  
18    as possible. February 28th, what we have  
19    left we need to throw out if Walgreens  
20    won't take it.

21                   Do you see that statement?

22           A.     Yes.

23           Q.     This is on February 22nd.

24                   So you're talking about



1     trying to sell as much Oxy as you can by  
2     a particular date.

3                     Do you see that?

4             A.     Yes.

5             Q.     And the reason you're  
6     talking about that is because the product  
7     was going to expire on that date and you  
8     couldn't sell it anymore, right?

9             A.     That is not -- that probably  
10    is not the case.

11                    I don't know this exact  
12    situation, but I would believe that  
13    Watson probably had no longer the ability  
14    to sell that sku for some reason, or that  
15    product contractually. So they said if  
16    you don't sell it in this period of time,  
17    then, you know, whatever happens,  
18    happens. We have to throw it out.

19                    But nothing changes, that we  
20    still would have had rules of who could  
21    take how much of that product. So it  
22    could still only go to who had the right  
23    to get, in whatever quantity it was.

24             Q.     When I showed you Exhibit-17

1 earlier, you told -- I said, Question:  
2 Was it the belief inside Anda that these  
3 types of promotional efforts would help  
4 to increase your sales of opioids?

5 Answer: We had no -- we had  
6 no program or goal whatsoever to sell  
7 opioids as a goal. We sold all products;  
8 C-II, non-C-II, OTC, vitamins.

9 Do you remember that  
10 question and answer?

11 A. Yes.

12 Q. But what we see here is that  
13 you were, in fact, specifically trying to  
14 sell particular opioid product and sell  
15 it by a certain date and willing to  
16 extend 90 days dating credit for that  
17 product; isn't that right?

18 MS. KOSKI: Object to form.  
19 Compound.

20 THE WITNESS: Yes. And it  
21 still would have followed under  
22 the due diligence that we had to  
23 do on each account of how much  
24 they could have.

1                   This being Anda, owned by  
2                   Watson, we were still considered  
3                   part of Watson. So this was  
4                   truly, in a sense, Watson's  
5                   product as a manufacturer. I was  
6                   partially a manufacturer. So I  
7                   needed -- this was in our  
8                   building, and I needed to get this  
9                   to Walgreens or whoever.

10                  And I do not know their --  
11                  there will be a reason of why  
12                  Watson could not sell that product  
13                  after 2/28. I don't know what the  
14                  reason is or was, but there would  
15                  have been some contractual reason  
16                  with another manufacturer, a deal  
17                  that the manufacturer made. Their  
18                  own -- that product and Watson  
19                  label might have been made by  
20                  somebody else, or it was made by  
21                  Watson and they switched. I'm not  
22                  sure.

23                  But this would have been  
24                  something that Watson knew that if

1 I didn't sell that, being part of  
2 Watson, that they would have to  
3 destroy the product; me too. We  
4 would have to destroy it.

5 I don't know what -- the  
6 contractual relationship they had  
7 on that item.

8 BY MR. PENNOCK:

9 Q. But you told us a little  
10 while ago, Question -- do you remember  
11 this question and answer?

12 Question: You did not have  
13 any program, you didn't have any goal to  
14 sell opioids of any kind?

15 Answer: No. Absolutely no  
16 goal to sell opioids as a goal within our  
17 organization.

18 Do you remember that  
19 question and answer?

20 A. I do. And it's out of  
21 context, because that was -- you were  
22 describing what I understood as a goal, a  
23 promotional period, something that I  
24 could sell more of something.

1                   This was to try to move  
2   product for Watson, still in the normal  
3   channels that we have, being able to be  
4   able to sell it. And, you know, still  
5   following the same rules and procedures  
6   we had of how much somebody could have of  
7   it.

8                   Q.     We'll let the jury decide if  
9   it's out of context. It was just a few  
10  minutes ago, or a short while ago.

11                   But this was the context,  
12  this Exhibit-17, where I asked you about  
13  this particular exhibit. And you -- we  
14  look at this, and we see that the offer,  
15  5 percent off, expires at the end of  
16  February, right?

17                   A.     Correct, yes.

18                   Q.     We went over that.

19                   And the item number for  
20  oxycodone -- I'm sorry, yeah, oxycodone,  
21  which is OxyContin 80 milligrams, is  
22  700654.

23                   That's the same number for  
24  this product that your sister sold, isn't

1     it?

2             A.     My sister did not sell.

3             MS. KOSKI:   Object to form.

4             THE WITNESS:   She does not  
5             sell.   She was credit.   She was  
6             part of credit.

7     BY MR. PENNOCK:

8             Q.     Okay.   Well, this is the  
9             same -- it's the same product that your  
10            sister had sought the credit extension of  
11            \$75,000 for, right?

12            A.     Yes.

13            Q.     That's the same one?

14            A.     Yes.

15            Q.     So the fact of the matter  
16            is, then, that you did, at least in this  
17            instance, you clearly had a goal to sell  
18            particular OxyContin, didn't you?

19            A.     Yes.

20            Q.     I mean, I asked you at the  
21            beginning of the dep, you understand I'm  
22            relying, and we're all relying, on the  
23            truth of your answers here today, don't  
24            you?

1 MS. KOSKI: Objection. Move  
2 to strike your colloquy. You're  
3 mischaracterizing his testimony.

4 MR. PENNOCK: It's not  
5 colloquy.

6 THE WITNESS: Yes.

7 - - -

8 (Whereupon, Anda-Paonessa  
9 Exhibit-21,  
10 Anda\_Opioids\_MDL\_0000278594-615,  
11 was marked for identification.)

12 - - -

13 BY MR. PENNOCK:

14 Q. I'm marking Exhibit-21 to  
15 your deposition, sir. It's 0000278594,  
16 and it ends at 615.

17 MS. KOSKI: Is that  
18 handwriting on the original?

19 MR. PENNOCK: Yes.

20 MS. KOSKI: Was this  
21 produced as a single document?

22 MR. PENNOCK: I'm sorry?

23 MS. KOSKI: Was this  
24 produced as a single document? It

1           has other e-mails in the back.

2                   MR. TRUAX: It was part of a  
3           file.

4                   MS. KOSKI: Got it. Thank  
5           you.

6                   THE WITNESS: Okay.

7 BY MR. PENNOCK:

8           Q.     Sir, do you recognize the  
9     handwriting on the first page of this  
10    document?

11          A.     No.

12          Q.     If we -- sir, if we look at  
13    the first e-mail in chronological order  
14    in this document, it's an e-mail from Jim  
15    Gatto to you on August 15th, 2007.

16                   It says, Al, I need your  
17    approval to change the monthly dosage  
18    limit percentage on the account listed  
19    below to 100 percent, allowing them to

20    [REDACTED]  
21    month.

22                   Do you see that?

23          A.     Yes.

24          Q.     And it's marked, Urgent



1 approval, in his subject line, right?

2 A. Yes.

3 Q. And he sent that to you and  
4 you approved it, right?

5 A. Yes.

6 Q. And he doesn't work across  
7 the hall from you, does he?

8 A. No. We spoke before this.  
9 But, yes, this was part of the process.  
10 I had to have this document before he was  
11 allowed to do it or change any of it.

12 So we spoke before this. It  
13 wouldn't have come through and I looked  
14 down at this and said yes two minutes  
15 later.

16 Q. Right. It was two minutes  
17 later --

18 A. There was a conversation --

19 Q. -- 5:25?

20 A. It was two minutes later.  
21 But a conversation pursued before that.  
22 And I am at my own computer, while not in  
23 the same building, was looking at the  
24 same documentation that you have

1 attached.

2 Q. And why is it that you did  
3 not document any of these conversations  
4 that you had approving above the 5,000  
5 dosage units a month?

6 MS. KOSKI: Object to form.

7 THE WITNESS: I don't know.

8 I didn't -- I didn't -- I never  
9 did that.

10 BY MR. PENNOCK:

11 Q. And this goes on and the --  
12 he writes, four days later, he's having  
13 some e-mails with Lisa Serafini.

14 Who is she?

15 A. She was the sales rep for  
16 the account.

17 Q. And it says, He orders a lot  
18 of oxys monthly. He gets 48 of all four  
19 strengths each month.

20 Do you see that?

21 A. Yes.

22 MS. KOSKI: Bates ending  
23 612.

24 THE WITNESS: Okay.

1 BY MR. PENNOCK:

2 Q. So a day later, Gatto writes  
3 to you again, and he says, Al, I wanted  
4 to get your take on this one before I  
5 sent for a limit increase. I already  
6 raised him to -- I already raised him on  
7 8/15 to 100 percent over limit. I've  
8 also attached the E/pop from the sales  
9 rep explaining the account situation.  
10 Looking at his numbers, I would have no  
11 problem asking for another increase to

■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED] [REDACTED]  
■ [REDACTED]  
■ [REDACTED] [REDACTED]

17 Do you see that?

18 A. Yes.

19 Q. So, first of all, this is  
20 five -- this is -- let's see. Sorry,  
21 this is 13 days after you raised him to

■ [REDACTED]  
■ [REDACTED]

24 A. Yes.

1 Q. And you wrote back a couple  
2 of minutes later again, Approved.

3 True?

4 A. Yes.

5 Q. And we see here from this  
6 e-mail, it doesn't sound like you had an  
7 in-person -- I'm sorry, from this e-mail  
8 it doesn't sound like you had some kind  
9 of conversation with him before this  
10 e-mail, does it?


11 A. No.

12 Q. And then he -- Gatto,  
13 next -- at least in this set of  
14 documents, he writes to you in -- I'm  
15 sorry, it's like over two years 'later.

16 And you had been -- you had  
17 been selling this place -- it's called  
18 Drug City Pharmacy, right?

19 A. Yes.

20 Q. You had been selling them

21   
22 since around August -- end of August  
23 2007, right?

24 A. Yes.

1           Q.     So now he writes again, it  
2     says, Al, I need your approval to change  
3     the monthly dosage limit percentage on

■     [REDACTED]

■     [REDACTED]

■     [REDACTED]

7           A.     There's --

8           Q.     Do you see that statement?

9           A.     Yeah. I'm looking at this  
10    now. There's -- the two minutes apart  
11    means that I had had a conversation  
12    before this e-mail was written.

13          Q.     Okay. Really?

14          A.     Yes, positively. There's no  
15    way, I just wouldn't do it. So I'll  
16    stand behind that forever. I would not  
17    have just, yes, sure, go ahead. No  
18    chance. Absolutely no chance.

19                 There was conversations that  
20    happened well before this, most likely  
21    down in the Anda building, about this  
22    account with Michael and Patrick  
23    Cochrane. That's why they're on these  
24    e-mails.

1           Q.     Only none of these e-mails,  
2     whether from Michael Cochrane or Mr.  
3     Gatto, not one of them says, Al, per our  
4     conversation earlier today, do they?

5                     We haven't seen one that  
6     says that yet, have we?

7           A.     No.

8           Q.     Not one of them says, Al, as  
9     we discussed, do they?

10                    MS. KOSKI:   Object to form.

11     BY MR. PENNOCK:

12           Q.     They don't say that, do  
13     they?

14           A.     No, they do not.

15           Q.     No.

16                    What this e-mail does is  
17     give you an explanation and facts.   He  
18     tells you, account has sent me a dispense  
19     report showing that he dispenses more  
20     than that amount of oxycodone.

21                    Do you see that statement?

22     Do you see that statement?

23           A.     Yes.

24           Q.     Then he gives you another

1 fact. They are a CSOS account.

2 Do you see that statement?

3 A. Yes.

4 Q. Their percentages are up and  
5 down as far as controls to non-controls,  
6 but for the most part decent numbers.

7 Do you see that fact --

8 A. Yes.

9 Q. -- he's telling you?

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

16 Q. And then he says, I have  
17 told the sales rep to request a  
18 questionnaire on Remedy.

19 Do you see that statement?

20 A. Yes.

21 Q. Okay. So we know that you  
22 don't even have a questionnaire yet on  
23 this?

24 A. That's not true.





<sup>1</sup> monthly dosage limit percentage on the



<sup>4</sup> dosage units per month.

5 Do you see that statement?

6 A. Yes.

7 Q. And he goes on to give this  
8 other information to you, right?

9 A. Yes.

10 Q. And, again, this time a  
11 couple of hours later, you approved it.

5

13 to get 75,000 dosage units per month,

5

15                    A.        Yes.

16 Q. So do you know what happened  
17 to Drug City?

18                      A.          No .

19

(Whereupon, Anda-Paonessa  
Exhibit-22, US Department of  
Justice; 11/3/16; United States  
Reaches \$900,000 Settlement with  
Drug City Pharmacy and its Former

1                   Owner for Unlawful Distribution of  
2                   Controlled Substances, was marked  
3                   for identification.)

4                                 -   -   -

5       BY MR. PENNOCK:

6               Q.       I'll show you what's being  
7       marked as Exhibit-22 to your deposition,  
8       sir.

9               A.       Okay.

10              Q.       The title of this, this is  
11       an article -- I'm sorry, this is a press  
12       release from the United States Attorney's  
13       Office, District of Maryland, United  
14       States Reaches Settlement with Drug City  
15       Pharmacy and Its Former Owner for  
16       Unlawful Distribution of Controlled  
17       Substances.

18                               Do you see that?

19              A.       Yes.

20              Q.       And they say here, According  
21       to the settlement agreement, Drug City  
22       and Lichtman admitted that from January  
23       2010 to April 4, 2012, they dispensed  
24       controlled substances in a manner not

1 fully consistent with their compliance  
2 obligations under the Controlled  
3 Substances Act and related regulations.

4 Right?

5 A. Yes.

6 Q. Do you see that?

7 A. Yes.

8 Q. And we saw that in December  
9 2009, on December 22nd, 2009, you  
10 personally approved their increase  
11 from -- what was it?

12 That was the one where you

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

19 A. Yes.

20 Q. So you would agree with me  
21 that it's likely that your -- the opioids  
22 that you were selling to that place from  
23 that period were being diverted and  
24 illegally sold, wouldn't you?

1 MS. KOSKI: Object to form.

2 THE WITNESS: I do not know  
3 what he was doing. I look at this  
4 e-mail, I see that we did a site  
5 visit, I see that we saw -- we had  
6 a person actually go to the  
7 facility and see it.

8 I see that he does 850  
9 scripts a year -- a day, which is  
10 huge.

11 I don't know, you know, what  
12 his checks and balances were,  
13 besides what he showed us. And  
14 the customer base that we saw, you  
15 know, everything that I see on  
16 here, you know, we did everything  
17 that we could do, including the  
18 site visit, talking to the owner,  
19 understanding what's going on, to  
20 feel that this was still okay.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED]

10                   What do you need to go to  
11 anyone else for?

12           A.     He's doing --

13                   MS. KOSKI: Object to form.

14                   THE WITNESS: He's doing  
15 close to 30,000 prescriptions a  
16 month, maybe more.

17 BY MR. PENNOCK:

18           Q.     So any Oxy that he diverted  
19 was your Oxy --

20                   MS. KOSKI: Object to form.

21 BY MR. PENNOCK:

22           Q.     -- right?

23           A.     Yes.

24                               - - -

1 (Whereupon, Anda-Paonessa  
2 Exhibit-23,  
3 Anda\_Opioids\_MDL\_0000078404-405,  
4 was marked for identification.)

5 - - -

6 BY MR. PENNOCK:

7 Q. Take a look at this, please.  
8 Exhibit-23, it's an e-mail, 000078404.

9 A. Okay.

10 Q. So in February 2012, you get  
11 an e-mail from Gayle Lane, right? She  
12 was in the Miami western diversion group  
13 with the -- with who? DEA?

14 A. DEA. Yes, with the DEA.

15 Q. She e-mailed you and --  
16 well, she e-mailed Mike Cochrane, who  
17 sent it to you. And you sent it to --  
18 back to Cochrane.

19 There's a lot of talk up  
20 here due to the Cardinal issue. Can you  
21 let me know what our due diligence is on  
22 Drug City ASAP? I know we have it,  
23 because you would not have sold to him.  
24 Also, send me his usage, too.

1 Do you see that?

2 A. Yes.

3 Q. So when this was sent to  
4 you, you did not have any knowledge, as  
5 you got this e-mail, as to what your due  
6 diligence had been for Drug City all that  
7 time?

8 MS. KOSKI: Object to form.

9 BY MR. PENNOCK:

10 Q. Did you?

11 A. I didn't know what exactly  
12 it was. I knew that we had it, and we  
13 did have it, because he sent it to Gayle.

14 - - -

15 (Whereupon, Anda-Paonessa  
16 Exhibit-24,  
17 Anda\_Opioids\_MDL\_0000078400-401  
18 was marked for identification.)

19 - - -

20 BY MR. PENNOCK:

21 Q. Exhibit-24 to your  
22 deposition is Bates number 0000078400.

23 A. Okay.

24 Q. You just told the jury that

1     you -- you said, I didn't -- with respect  
2     to the due diligence on Drug City, you  
3     said, I didn't know exactly what it was.  
4     I knew we had it. And we did have it.

5                     Do you remember just saying  
6     that a second ago?

7             A.     Yes.

8             Q.     Well, then, let's look at  
9     this e-mail, Exhibit-24.

10                    You got the -- forwarded the  
11     request from the DEA. And you write,  
12     Wonderful. Didn't we discuss this with  
13     her before? Are we shutting him down  
14     today?

15                    Do you see that statement?

16             A.     Yes.

17             Q.     And then Cochrane writes  
18     back to you, Michael Cochrane, I think  
19     this was the one you brought up last year  
20     to her when we met with her. I think  
21     McKesson was giving them 240,000 a month.

22                    Do you see that?

23             A.     Yes.

24             Q.     You say, Accokeek --



1       Cochrane says Accokeek was discussed in  
2       more detail, and she confirmed in  
3       December it was a pill mill.

4                       Do you see that?

5               A.       Yes.

6               Q.       That's some other pill mill,  
7       right?

8               A.       That we gave to them to let  
9       them know that this was a pill mill in  
10      our due diligence.

11              Q.       Right. So at this point,  
12      you're not even sure which pill mill  
13      she's writing about?

14              A.       That's not true.

15                      MS. KOSKI: Object to form.

16                      THE WITNESS: That's not  
17      true.

18      BY MR. PENNOCK:

19              Q.       You just -- you asked them,  
20      didn't we discuss this with her before?

21              A.       I didn't --

22              Q.       And he tells you -- Cochrane  
23      tells you, no, that was Accokeek?

24              A.       No. Because we discussed --

1 we discussed -- she came in because of  
2 Accokeek, because we found Accokeek, in  
3 our due diligence, that there was a big  
4 problem with that place and we wouldn't  
5 sell them.

6 And she came in with a big  
7 green bar paper worth and showed me, look  
8 how horrible these guys are. And at that  
9 point, we discussed and showed her our  
10 due diligence again on -- back then, not  
11 in this time, not during 2012, but we  
12 talked to her about this drug thing.

13 And no, we did not --

14 Q. Which drug?

15 A. Drug City.

16 We talked to her about Drug  
17 City, and tried to get her -- do we know  
18 anything about Drug City? Do you see  
19 something that's a problem with Drug  
20 City? Showed her the data on them too.  
21 And she left that there wasn't a problem  
22 with them.

23 And even so, we still  
24 cancelled them from getting Oxy from us

1 almost a year ahead of time -- or, no,  
2 seven months.

3 Q. So you told her, Gayle Lane,  
4 that there was a problem with Drug City?

5 A. No, I did not say there was  
6 a problem with Drug City. We showed our  
7 due diligence on Drug City and asked her  
8 opinion on it, because we went to the DEA  
9 many times to ask their opinion of how we  
10 were doing our due diligence.

11 And she did not have a  
12 problem with Drug City with what we  
13 showed her that day.

14 Q. And so you didn't shut them  
15 down?

16 A. Not when the DEA told me, I  
17 don't see an issue here.

18 Q. Do you have any  
19 documentation regarding this conversation  
20 you're alleging with Gayle Lane?

21 MS. KOSKI: Object to form.

22 THE WITNESS: I personally  
23 do not.

24 BY MR. PENNOCK:

1 Q. Do you know if it exists?

2 A. Possibly.

3 Q. What would be the form of  
4 that documentation of this conversation  
5 with the DEA?

6 A. Someone -- it would have had  
7 to be either Mike, Patrick or Jay  
8 Spellman, because the three of us sat  
9 with her that day that she would -- if  
10 one of them documented it.

11 It could even be in the due  
12 diligence of them that we talked to  
13 Gayle.

14 Q. Why is it that you brought  
15 up Drug City to her in 2011 and not, for  
16 example, in 2010, 2009?

17 A. Because the due diligence we  
18 were doing fell within the parameters  
19 that we felt were okay for that -- for  
20 that places and the size that they were.

21 Q. This is back to Exhibit-21.

22 This is the photograph that  
23 Gatto sent to you when he was asking for  
24 an approval. And there's your Drug City

1 Pharmacy.

2 Do you see that?

3 A. Yes.

4 Q. That's what he sent to you  
5 when he got approval from you to give

■

7 A. Yes.

8 Q. From Google Maps, right?

9 A. Yes.

10 Q. All right.

11 - - -

12 (Whereupon, Anda-Paonessa

13 Exhibit-25,

14 Anda\_Opioids\_MDL\_0000282932, was  
15 marked for identification.)

16 - - -

17 BY MR. PENNOCK:

18 Q. I'll hand you Exhibit-25,  
19 please. This is an e-mail bearing Bates  
20 number 0000282932.

21 A. Okay.

22 Q. You just told us that you  
23 had done your due diligence on Drug City  
24 and had indicated, for the time that you

1     were selling them until the end, that  
2     they were okay to sell to. I think you  
3     said something about because of their  
4     size.

5                     Do you remember that? I can  
6     get you the exact quote, if you want it.

7             A.     Yes.

8             Q.     So you told her, Gayle Lane,  
9     that there was a problem with Drug City?

10                    No, I did not say there was  
11    a problem with Drug City. We showed her  
12    our due diligence on Drug City and asked  
13    her her opinion on it. Because we went  
14    to the DEA many times to ask their  
15    opinion about how we were doing our due  
16    diligence. And she said she did not have  
17    a problem with Drug City, what we showed  
18    her.

19                    And you said -- do you  
20    remember that?

21             A.     Yes.

22             Q.     So I'm showing you an e-mail  
23    from -- it's an e-mail from February 3rd,  
24    2010.

1                   This is about a month after  
2    you raised them, Drug City, 900 percent,  
3    right?

4 A. Yes.

5 Q. And here is your e-mail,  
6 5:30 in the morning, to Mike Cochrane.

7 SOPs, that stands for  
8 standard operating procedure?

9 A. Yes.

10 Q. Mike, do we have anything in  
11 writing on our policies for control  
12 limits and how we handle each customer?

13 Do you see that statement?

14                   A.       Yes.

15 Q. Please let me know ASAP. I  
16 need to respond to a corporate person on  
17 how we do it. Or do you have anything?

18 Do you see that?

19                    A.        Yes.

20            0.        So at that time, one month

000

22 units a month, you, the president of the  
23 company, didn't even know if you had  
24 anything in writing --

1           A.       That's -- that's --

2           Q.       -- for your policies on  
3       control limits and how you handle each  
4       customer?

5                   MS. KOSKI:   Object to form.

6                   THE WITNESS:   That's 100  
7       percent untrue.   I was asking him  
8       if he had anything that he could  
9       send me that I could forward.

10                  We had those.   And I didn't  
11       have anything at home at 5:30 in  
12       the morning to send somebody.

13       BY MR. PENNOCK:

14           Q.       But you said, Do we have  
15       anything in writing on our policies for  
16       control limits?

17           A.       Well, I was asking for, does  
18       he have a Word document on his laptop?  
19       You know, do you have something you can  
20       send me?   I need to send it to our  
21       corporate office.

22           Q.       I see.

23                   And he wrote back, We have a  
24       brief SOP that addresses the increase



1 process above 5,000 per month that is our  
2 standard. I'm in PR at DCI. I didn't  
3 bring my laptop because I don't have an  
4 air card. I'm sure I have something  
5 more, just need to look. I think we -- I  
6 think I have the letter we sent in the  
7 beginning, the questionnaire, the SOP  
8 regarding increases.

9 Do you see that statement?

10 A. Yes.

11 Q. Not exactly the height of  
12 organization for written policies on  
13 something as crucial as the sale and  
14 distribution of opioids, is it?

15 MS. KOSKI: Object to form.

16 THE WITNESS: Disagree.

17 BY MR. PENNOCK:

18 Q. You disagree.

19 You're the president of the  
20 company, and you can't even put your  
21 hands -- withdrawn.

22 This e-mail shows us that  
23 the president of the company, who had  
24 been distributing and approving opioids

1 for massive sale around the United States  
2 for years, can't even put his hands on a  
3 written policy regarding control limits  
4 for each customer?

5 Doesn't that show that?

6 MS. KOSKI: Object to form.

7 THE WITNESS: Yes, it does  
8 show that, that I did not have  
9 that at 5:30 in the morning at my  
10 house.

11 BY MR. PENNOCK:

12 Q. You would think if you had  
13 anything at 5:30 in the morning at your  
14 house, it would be that?

15 MS. KOSKI: Object to form.

16 Move to strike.

17 BY MR. PENNOCK:

18 Q. Do you know how many people  
19 died from opioids in 2010?

20 MS. KOSKI: You don't need  
21 to answer that question.

22 BY MR. PENNOCK:

23 Q. Do you know that?

24 MS. KOSKI: Object to form.

1 Move to strike.

2 BY MR. PENNOCK:

3 Q. Do you know an estimate of  
4 how many died that year?

5 MS. KOSKI: Object to form.  
6 Lacks foundation.

7 MR. PENNOCK: Let's take a  
8 quick break, please.

9 VIDEO TECHNICIAN: Going off  
10 record. The time is 2:04.

11 - - -

12 (Whereupon, a brief recess  
13 was taken.)

14 - - -

15 VIDEO TECHNICIAN: Going  
16 back on record. Beginning of  
17 Media File 5. The time is 2:16.

18 BY MR. PENNOCK:

19 Q. Mr. Paonessa, I'm going to  
20 show you what's being marked as  
21 Exhibit-26 to your deposition,  
22 0000274716.

23 - - -

24 (Whereupon, Anda-Paonessa

1           Exhibit-26,  
2           Anda\_Opioids\_MDL\_0000274716-717;  
3           With Attachment, was marked for  
4           identification.)

5                           -   -   -

6       BY MR. PENNOCK:

7           Q.     Please take a look at that.

8           A.     Okay.

9           Q.     Okay. So Exhibit-26 is an  
10          e-mail with an attachment. It's dated  
11          September 24th, 2007. It's sent to,  
12          among others, Michael Cochrane.

13                   Do you see that?

14          A.     Yes.

15          Q.     And it's regarding a  
16          customer New Choice Pharmacy, located at  
17          1900 23rd Street, Cuyahoga Falls, Ohio,  
18          right?

19                   Do you see that, purchasing  
20          date from --

21          A.     Yes, but it's -- it's  
22          confusing that the second part of the  
23          body of it says that the bulk of the  
24          patients serviced at New Choice come from

1     this other location.

2             Q.     Right.

3             A.     So it's from the pharmacy --  
4     I understand now.

5             Q.     Maybe most of the  
6     prescriptions are being filled from --  
7     are being prescribed at Falls Pain?

8             A.     Correct.

9             Q.     And if you look at the  
10    purchasing data, you see that the top 18  
11    products dispensed by New Choice  
12    Pharmacy, the top 18 products are  
13    opioids.

14                    You can determine that by  
15    looking at the name of the product all  
16    the way on the left-hand column.

17             A.     Yes, I see.

18             Q.     And by looking at the units  
19    over there.

20             A.     Yes.

21             Q.     So the top 18 products are  
22    opioids, or fentanyl.

23                    Here is an example. Here  
24    are the fentanyls.

1           A.       Yes.

2                   MS. KOSKI:  You're saying  
3           you did the math to get the top  
4           18?  This is alphabetical.

5                   MR. PENNOCK:  Yes.  Yes.

6                   THE WITNESS:  It will be  
7           accurate.

8                   MR. PENNOCK:  I'll show you  
9           this e-mail.

10                           -   -   -

11                           (Whereupon, Anda-Paonessa  
12           Exhibit-27,  
13           Anda\_Opioids\_MDL\_0000274587-589,  
14           was marked for identification.)

15                           -   -   -

16  BY MR. PENNOCK:

17           Q.       I'm just showing you -- I  
18           just marked as Exhibit-27 to your  
19           deposition an e-mail thread bearing Bates  
20           number 0000274587.

21           A.       Okay.

22           Q.       So there's some e-mails that  
23           begin -- the first e-mail is to Mike  
24           Cochrane from Constantine Moshos.

1                   And there's an indication  
2     that, We have to put a cap on controls  
3     for this account -- referring to New  
4     Choice Pharmacy, right?

5                   MS. KOSKI: Object to form.

6                   THE WITNESS: Yes.

7                   Well, I don't know why  
8             Constantine would have wrote that,  
9             but that looks like what he wrote,  
10            yes.

11    BY MR. PENNOCK:

12                Q.     It's come to my attention  
13     that this pharmacy acts as an out  
14     pharmacy for both the hospital and the  
15     pain management center which is  
16     associated with the hospital.

17                   Do you see that?

18                A.     Yes.

19                Q.     And there's another e-mail  
20     here from Mike Cochrane.

21                   It says, Take a look at this  
22     usage report on their purchases from  
23     Cardinal. They do buy some non-controls  
24     from them, but nothing from us.

1 Right?

2 A. Okay.

3 Q. And that's an issue, right,  
4 if somebody is only buying controls from  
5 you?

6 A. Yes. In 2007, pain clinics  
7 were not considered what they are in  
8 2010, '12, '15 and today. They barely  
9 exist anymore.

10 But in 2007, we were trying  
11 to validate the doctor and the location.  
12 And that looks like what we were trying  
13 to do.

14 When I use the word  
15 "legitimatize," that's what I'm meaning.  
16 They are part of the Cleveland Health  
17 Network, too, and Premiere Hospital  
18 group, which is huge. So I still was  
19 concerned with this pain management  
20 clinic and who they were, so that's what  
21 I was trying to find out.

22 I don't know what the answer  
23 came back, but that's what we needed to  
24 vet out.



1 Q. Well, you anticipated my  
2 question, that you wrote, See if we can  
3 legitimize it in some way.

4 A. Poor choice of words.

5 - - -

6 (Whereupon, Anda-Paonessa  
7 Exhibit-28,  
8 Anda\_Opioids\_MDL\_0000272213-215,  
9 was marked for identification.)

10 - - -

11 BY MR. PENNOCK:

12 Q. Take a look at Exhibit-28.  
13 This is 0000272213.

14 A. Okay.

15 Q. So a few months later, in  
16 December of 2007, there's a communique  
17 that comes out from the DEA, right?

18 A. Yes.

19 Q. And it's from the  
20 pharmaceutical investigations section,  
21 Drug Enforcement Administration. And it  
22 indicates that a distributor, by their  
23 own initiative, recently notified the DEA  
24 that they have discontinued or restricted

1 business with the below-listed customers.  
2 You are once again reminded of your  
3 responsibilities to exercise due  
4 diligence in accordance with 21 CSA  
5 Section 823A1 for the maintenance of  
6 effective controls against the diversion  
7 of controlled substances into other than  
8 legitimate medical, scientific or  
9 industrial channels and to review your  
10 customer's account, especially new  
11 accounts, to ensure that all purchases  
12 are only for these reasons.

13 So the DEA is letting you  
14 know that anyone on this list you got to  
15 take a close look at, right?

16 A. Yes.

17 Q. And the pharmacy we were  
18 just looking at is on this list, right?

19 A. Yes.

20 Q. So who is Emily Schultz?

21 A. She was one of the  
22 compliance clerks that gathered and  
23 analyzed the data from the -- that we  
24 received from pharmacies.

1           Q.     Mike Cochrane writes to her,  
2     Get all the customer information from  
3     this below in Excel. I don't want to cut  
4     all of them off, some are good customers.

5                     Do you see that?

6           A.     Yes.

7           Q.     I mean, that -- does that  
8     raise some concerns for you, that he was  
9     sort of prejudging whether he wants to  
10    cut -- not cut customers off, without  
11    looking into this?

12                    MS. KOSKI: Object to form.

13                    THE WITNESS: He probably  
14    was following what Kyle said at  
15    the bottom, such as, Your company  
16    has a right to continue sales, if  
17    deemed appropriate, with this  
18    notification. It does not infer  
19    administrative or criminal  
20    proceedings will be initiated on  
21    this notification alone.

22                    So he's asking for data on  
23    each one of these pharmacies,  
24    instead of just a straight cutoff

1           from everyone. We don't know how  
2           other people did their due  
3           diligence and what they saw.

4                     But if we had nothing on  
5           these people, they were cut off.  
6           If New Choice was -- continued to  
7           be sold, there was probably --  
8           there was most likely data on  
9           them, if that's what happened in  
10          this instance.

11                     - - -

12                     (Whereupon, Anda-Paonessa  
13           Exhibit-29,  
14           Anda\_Opioids\_MDL\_00002722520-521,  
15           was marked for identification.)

16                     - - -

17   BY MR. PENNOCK:

18           Q.       This is marked Exhibit-29 to  
19   your deposition. Bates number 272520.

20           A.       Okay.

21           Q.       Okay. So this is an e-mail  
22   thread talking about a pharmacy in Los  
23   Angeles, right?

24           A.       Yes.

1 Q. And somebody, Barry Koran,  
2 e-mailed you and Jane Howard and wanted  
3 to know if there was any update on  
4 raising United.

5 That's the name of the  
6 pharmacy, right?

7 A. Yes.

8 Q. And there's some e-mail  
9 exchanges. And, let's see.

10 Mike Cochrane writes to you,  
11 They have heavy control use overall.  
12 Their percentages with us are terrible.

13 What does that mean?

14 A. Their percentage of  
15 controlled versus non-controls were one  
16 of the things that we look at. And we  
17 didn't -- you know, it was something that  
18 would ask us to ask them for more  
19 information, because we would need to  
20 know, why are your control sales higher,

21 [REDACTED]

22 [REDACTED]

23 Something like that.

24 This is 2008, still back in

1     that period of time when the pain clinics  
2     were still out there.

3                   So it didn't fit, so we were  
4   looking for more information.

5 Q. Well, now we know that pain  
6 clinics were a major part of the problem,  
7 right?

8                    A.       Yes.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

17 Right?

18                    A.        Yes.

19 Q. So he's saying, we're not  
20 doing this?

21                    A.        Yes.

22 Q. And you write back, Wouldn't  
23 a hospice use more controls normally?  
24 Putting aside the location for a minute.

1                   So you're sort of saying  
2   back to him, well, maybe there's a reason  
3   why they are using all these controls?

4                A.     I did ask that, yes.

5                Q.     And when you said "putting  
6   aside the location for a minute," what  
7   were you talking about with that comment?

8                A.     I believe that Mike might  
9   have stumbled upon the fact that fentanyl  
10   might becoming something. Fentanyl  
11   wasn't a big -- wasn't a -- it was  
12   obviously an opioid, but the Oxy was what  
13   we looked at mostly.

14               And fentanyl was not  
15   something that -- you know, we knew it  
16   was an opioid, but it wasn't something  
17   that it is now, and today. And I didn't  
18   know what he had seen in Los Angeles or  
19   maybe we had talked.

20               But I did realize that this  
21   was a hospice center -- or a pharmacy  
22   that took care of people in hospice. And  
23   that was my question to Mike, is why --  
24   wouldn't there be more controls for a

1 hospice place?

2 Q. Right. But what do you mean  
3 by "putting aside the location for a  
4 minute"? Talking about Los Angeles?

5 A. It's either Los Angeles --  
6 I'm not sure. It's either Los Angeles or  
7 the location -- or that place, that  
8 individual hospice. It's one of the two.  
9 I don't know which one.

10 Q. Okay. I'll show you that  
11 you --

12 - - -

13 (Whereupon, Anda-Paonessa  
14 Exhibit-30,  
15 Anda\_Opioids\_MDL\_00002722520-521,  
16 was marked for identification.)

17 - - -

18 BY MR. PENNOCK:

19 Q. Marked as Exhibit-30 is  
20 another e-mail. Bates number 272517.

21 A. Okay.

22 Q. So you concluded a few days  
23 later that they would use -- or that you



1 month?

2 A. Yes. I suggested that. I  
3 didn't tell him to do it, unless you have  
4 another e-mail that says I did. So --

5 MR. PENNOCK: Give me a  
6 five-minute break, please.

7 VIDEO TECHNICIAN: Going off  
8 record. The time is 2:36.

9 - - -

10 (Whereupon, a brief recess  
11 was taken.)

12 - - -

13 VIDEO TECHNICIAN: Going  
14 back on record. Beginning of  
15 Media File 6. The time is 2:45.

16 BY MR. PENNOCK:

17 Q. Sir, I'm going to show you  
18 Exhibit-31, please.

19 - - -

20 (Whereupon, Anda-Paonessa  
21 Exhibit-31,  
22 Anda\_Opioids\_MDL\_0000090857-858,  
23 was marked for identification.)

24 - - -

1 BY MR. PENNOCK:

2 Q. This is 90857.

3 MR. PENNOCK: Where's the  
4 attachment? Oh, it came  
5 separately.

6 - - -

7 (Whereupon, Anda-Paonessa  
8 Exhibit-32,  
9 Anda\_Opioids\_MDL\_0000090808, was  
10 marked for identification.)

11 - - -

12 BY MR. PENNOCK:

13 Q. Here is the attachment that  
14 was produced separately, Exhibit-32.

15 MS. KOSKI: Oh, this one is  
16 yours.

17 BY MR. PENNOCK:

18 Q. The attachment is 90808.

19 MS. KOSKI: Was this  
20 attached to something else?

21 THE WITNESS: This was  
22 attached to this.

23 I'm assuming this was  
24 attached to the e-mail, right?

1                   When it says attachment --

2                   MR. KING: It says -- the  
3                   e-mail refers to an attachment.

4                   THE WITNESS: Right. Which  
5                   is this.

6                   MS. KOSKI: So it's --

7                   THE WITNESS: Right here.

8                   MS. KOSKI: Got it. The  
9                   Bates numbers aren't sequential.  
10                  But it's okay.

11                  THE WITNESS: Okay.

12                                 - - -

13                   (Whereupon, Anda-Paonessa  
14                   Exhibit-33,  
15                   Anda\_Opioids\_MDL\_0000090805-807,  
16                   was marked for identification.)

17                                 - - -

18                  BY MR. PENNOCK:

19                   Q.       Here is -- I'm marking  
20                   Exhibit-33. This is 90805.

21                   A.       Okay.

22                   Q.       Okay. So these e-mails  
23                   relate to the same United Pharmacy that  
24                   was the subject of some e-mails in early

1 2008, right?

2 A. Yes.

3 Q. And in July of 2012, there  
4 is discussion between Mr. Cochrane and  
5 Mr. Brown on an e-mail where Mr. Brown  
6 notes that fentanyl has been anywhere  
7 between 4,500 and 5,500 per month since  
8 the end of last year. The last three  
9 months are closer to 5,000.

10 Do you see that?

11 A. Yes.

12 Q. Barry Koran, senior account  
13 manager -- he would be in sales; is that  
14 right?

15 A. Yes.

16 Q. He submitted a letter  
17 apparently addressing some concerns about  
18 United Pharmacy, right?

19 I had given you that letter,  
20 right?

21 A. Yes.

22 MS. KOSKI: Object to form.

23 BY MR. PENNOCK:

24 Q. And so the letter, the

1 letter is from Ernestina Saxton, true?

2 Correct?

3 A. Yes.

4 Q. And it's to whom it may  
5 concern. And it talks about somebody who  
6 has been Dr. Saxton's patient since 2008  
7 and Dr. Saxton has intractable migraine  
8 with aura and chronic musculoskeletal  
9 pain secondary to many athletic injuries,  
10 decathlon, golf, ski, water, snow, jet,  
11 basketball, bowling and running.

12 Do you see that?

13 A. Yes.

14 Q. And other trauma.

15 Now, there's nothing in here  
16 indicating that this patient had cancer,  
17 however, right?

18 MS. KOSKI: Object to form.

19 THE WITNESS: Yes.

20 BY MR. PENNOCK:

21 Q. Cancer would have been the  
22 indication for that particular medication  
23 that they were asking for, right?

24 A. No.

1 MS. KOSKI: Object to form.

2 BY MR. PENNOCK:

3 Q. Fentanyl?

4 A. No.

5 Q. It could be prescribed for  
6 these problems as well?

7 MS. KOSKI: Object to form.

8 Foundation.

9 THE WITNESS: I'm not -- I  
10 wouldn't know. Doctor-wise, I  
11 wouldn't know.

12 And these are Actiq, too.  
13 Based on the other e-mails, Actiq  
14 is the fentanyl lollipop for  
15 people -- it's not a patch.

16 BY MR. PENNOCK:

17 Q. So this is a fentanyl  
18 lollipop.

19 This is like a lozenge?

20 A. It's actually --

21 Q. It's actually a lollipop?

22 A. It's actually a sucker, yes.

23 And the calls to Kyle Wright  
24 were -- we didn't -- we wanted to know

1 from Kyle Wright, how do we distinguish  
2 patch -- should we distinguish patches  
3 versus the lollipops, because the  
4 indication of the lollipop, we didn't  
5 know how often they would use the  
6 lollipop, what the normal amount would  
7 be. So we were struggling if we should  
8 take that and make it separate.

9                   And I have a feeling, in the  
10    later years, maybe in '12, we did  
11    separate Actiq from Oxy -- I mean,  
12    fentanyl. I don't think that they were  
13    in the same category.

14 Q. With respect to this letter,  
15 you -- and I think you have as  
16 Exhibit-34 --

17 MS. KOSKI: 32?

18 BY MR. PENNOCK:

19 Q. Sorry, 33.

The diagram illustrates a sequence of six steps or components, represented by black squares, arranged vertically. A horizontal bar at the top is connected to the first square. A horizontal bar at the bottom is connected to the sixth square. The middle four squares are connected to the top bar by lines that branch out to the right, then turn down to the square, and then turn right again to the bottom bar.

■                    ■                    ■

■                    ■

■                    ■

■                    ■                    ■

5                    Q.            Or are we now questioning a  
6                    doctor that seems to have written a  
7                    sincere letter with this reasoning?

8                    A.            Yes.

9                    Q.            You say, Most bad doctors  
10                  would not have written the letter when  
11                  they know the pharmacy is going to get  
12                  the Oxy anyway.    Make sense?

■                    ■                    ■

■                    ■                    ■

■                    ■

■                    ■

■                    ■

■                    ■

■                    ■                    ■

■                    ■

■                    ■

■                    ■

■                    ■

■                    ■                    ■



█ [REDACTED] █  
█ [REDACTED] [REDACTED]  
█ [REDACTED] [REDACTED]  
█ [REDACTED]  
█ [REDACTED]  
█ [REDACTED] █  
█ [REDACTED]  
█ [REDACTED]  
█ [REDACTED] [REDACTED]  
█ [REDACTED]  
█ [REDACTED] [REDACTED]  
█ [REDACTED]  
█ [REDACTED] [REDACTED]  
█ [REDACTED]  
█ [REDACTED] [REDACTED]  
█ [REDACTED]

15 Q. Well, you say, Or are we now  
16 questioning a doctor that seems to have  
17 written a sincere letter with the  
18 reasoning?

19 A. I still look at that as a  
20 question, not an urging.

21 Q. What about, Most bad doctors  
22 would not have written the letter when  
23 they know the pharmacy is going to get  
24 the Oxy anyway?

1           A.       That was a statement, not  
2           urging, once again.

3           Q.       Well, did this doctor end up  
4           getting indicted?

5           A.       I don't know.

6                   -   -   -

7                   (Whereupon, Anda-Paonessa  
8           Exhibit-34, United States District  
9           Court; Search and Seizure Warrant,  
10          was marked for identification.)

11                  -   -   -

12       BY MR. PENNOCK:

13           Q.       I'll show you what I'm  
14          marking as Exhibit-34. I'd like to  
15          quickly go through this with you and  
16          direct you to certain pages, sir.

17                   MS. KOSKI: Can you  
18          represent for the record what this  
19          is? It's not from our files.

20                   MR. PENNOCK: Sure. Marked  
21          as Exhibit-34, a seizure and  
22          search warrant that, as indicated,  
23          was issued by the United States  
24          District Court for the Central

1 District of California in November  
2 of 2017.

3 BY MR. PENNOCK:

4 Q. If you turn to Page 3, you  
5 will see that it was directed at -- you  
6 see the document reflects it was directed  
7 at United Pharmacy, Inc., Los Angeles,  
8 California?

9 Page 3.

10 MS. KOSKI: I'm struggling,  
11 too.

12 But I'm not sure the witness  
13 is familiar with the form of the  
14 document.

15 Can you put it on the  
16 screen, maybe, so we can see it?

17 MR. PENNOCK: Yep.

18 MS. KOSKI: So page numbered  
19 3, not the Roman.

20 Just look on the screen.

21 THE WITNESS: Sorry, I  
22 didn't see that. Okay.

23 Okay, I have it. Yes.

24 BY MR. PENNOCK:

1 Q. Okay. So you see that it's  
2 directed at United Pharmacy, Inc.?

3 A. Yes.

4 Q. And -- hold on. And I just  
5 want to direct your attention to the  
6 doctor that is mentioned on here. Page  
7 21.

8 A. Okay.

9 Q. In February of 2015, the DEA  
10 initiated the investigation in this case  
11 after receiving information from the DEA  
12 Fresno resident office that Dr. Ernestina  
13 Saxton was writing large quantities of  
14 controlled substance prescriptions for  
15 patients located in Los Angeles.

16 Do you see that?

17 A. Yes.

18 Q. And that is the -- at least  
19 appears to be the same doctor that wrote  
20 this letter that you have been referring  
21 to as a sincere doctor in your e-mail?

22 A. Yes.

23 Q. Did this ever come to your  
24 attention?

1 A. No.

2 MS. KOSKI: I'm going to  
3 object. The document is dated  
4 2017. Mr. Paonessa didn't work at  
5 Anda in 2017.

6 MR. PENNOCK: Okay.

7 MS. KOSKI: In fact had been  
8 gone for two years --

9 MR. PENNOCK: Hmm?

10 MS. KOSKI: You had been  
11 gone for two years by then, right?

12 THE WITNESS: Three by then.  
13 Because it says Anda '17.

14 BY MR. PENNOCK:

15 Q. Take a look at Page 25.

16 A. Okay.

17 Q. It says, United dispensed  
18 over 1 million dosage units of oxycodone  
19 over the same period, with over 400,000  
20 dosage units of 30-milligram oxycodone.

21 Do you see that?

22 A. Yes.

23 MS. KOSKI: I don't know  
24 where you are. What paragraph?

1 THE WITNESS: 25, right  
2 here.

3 MS. KOSKI: I'm with you.  
4 Sorry.

5 BY MR. PENNOCK:

6 Q. So whatever your protocol  
7 was for due diligence back in 2012, you  
8 would agree with me, if the allegations  
9 contained in this document are correct,  
10 that the due diligence with respect to  
11 this facility failed pretty badly?

12 MS. KOSKI: I'm going to  
13 object to form. And I'll instruct  
14 you not to answer.

15 He's not a lawyer. This  
16 is -- if the allegations in this  
17 document, which is a search and  
18 seizure warrant are correct. How  
19 can he answer that question?

20 MR. PENNOCK: I don't think  
21 it's too hard. I'm just -- so I'm  
22 going to reiterate my question.

23 BY MR. PENNOCK:

24 Q. I'm asking you, you've seen

1     this document?

2             A.       Yes.

3             Q.       Assuming this to be  
4     authentic, which I'm representing it is,  
5     assuming these allegations against this  
6     doctor to be correct, Dr. Ernestina  
7     Saxton, you would agree with me that  
8     whatever due diligence you and your  
9     colleagues did in 2012 were insufficient  
10    to make an appropriate determination as  
11    to the prescriptions and use of  
12    medications by Ernestina Saxton?

13            MS. KOSKI: Object to form.  
14            Lacks foundation. Calls for a  
15            legal conclusion.

16            You can answer if you want  
17            to speculate for Mr. Pennock.

18            THE WITNESS: I don't know  
19            what they were buying in 2012.  
20            This is 2017. I have no idea what  
21            they had in their due diligence  
22            that we had on file for them at  
23            that period of time.

24    BY MR. PENNOCK:

1           Q.     Sir, I have a series of  
2 documents I'd like you to look at. I'm  
3 going to mark them all and hand them to  
4 you one by one. Before I question, I'll  
5 get them all marked.

6                   MR. PENNOCK: I'm going to  
7 need a number of other tabs.

8                                 - - -

9                                 (Whereupon, Anda-Paonessa  
10 Exhibit-35,  
11 Anda\_Opioids\_MDL\_0000275048, was  
12 marked for identification.)

13                                 - - -

14 BY MR. PENNOCK:

15           Q.     Here is Exhibit-36, which is  
16 275048.

17                   MS. KOSKI: Is that 35?

18                   MR. PENNOCK: Wait a second.  
19 Was that 35?

20                   MS. KOSKI: 35.

21                   MR. PENNOCK: Sorry, I  
22 marked 35 was --

23                   MS. KOSKI: You gave him 35,  
24 you just said 36.



1 MR. PENNOCK: So 35 was  
2 275048.

3 - - -

4 (Whereupon, Anda-Paonessa  
5 Exhibit-36,  
6 Anda\_Opioids\_MDL\_0000284363-364,  
7 was marked for identification.)

8 - - -

9 MR. PENNOCK: 36 is 284363.

10 - - -

11 (Whereupon, Anda-Paonessa  
12 Exhibit-38,  
13 Anda\_Opioids\_MDL\_0000284363-364,  
14 was marked for identification.)

15 - - -

16 MR. PENNOCK: 38 is 273292.

17 I have 37 over here, I'm  
18 looking for another copy.

19 MS. KOSKI: You gave me --  
20 okay, 38.

21 This is an extra copy of 38.  
22 This is an extra of 38.

23 - - -

24 (Whereupon, Anda-Paonessa

1           Exhibit-39,  
2           Anda\_Opioids\_MDL\_0000273518, was  
3           marked for identification.)

4                   -   -   -

5                   MR. PENNOCK:   39 is 273518.

6                   THE WITNESS:   I don't have  
7           37.

8                   MS. KOSKI:    I know.   I think  
9           he's working on it.

10                   -   -   -

11                   (Whereupon, Anda-Paonessa  
12           Exhibit-40,  
13           Anda\_Opioids\_MDL\_0000287964, was  
14           marked for identification.)

15                   -   -   -

16                   MR. PENNOCK:   40 is 287964.

17                   -   -   -

18                   (Whereupon, Anda-Paonessa  
19           Exhibit-41,  
20           Anda\_Opioids\_MDL\_0000273617, was  
21           marked for identification.)

22                   -   -   -

23                   MR. PENNOCK:   41 is 273617.

24                   -   -   -

1 (Whereupon, Anda-Paonessa  
2 Exhibit-42,  
3 Anda\_Opioids\_MDL\_0000273762, was  
4 marked for identification.)

5 - - -

6 MR. PENNOCK: 42 is 273762.

7 - - -

8 (Whereupon, Anda-Paonessa  
9 Exhibit-43,  
10 Anda\_Opioids\_MDL\_0000283018-019,  
11 was marked for identification.)

12 - - -

13 MR. PENNOCK: 43 is 283018.

14 - - -

15 (Whereupon, Anda-Paonessa  
16 Exhibit-44,  
17 Anda\_Opioids\_MDL\_0000274800, was  
18 marked for identification.)

19 - - -

20 MR. PENNOCK: 44 is 274800.

21 MS. KOSKI: The only one he  
22 did not get was 37.

23 MR. PENNOCK: I don't have a  
24 copy of it. I'll just keep it

1 right here for a moment so I don't  
2 lose track.

3 MS. KOSKI: Okay.

4 MR. PENNOCK: We don't have  
5 a copy, right?

6 We started with 35?

7 MS. KOSKI: He's given you  
8 ten exhibits. Listen to the  
9 questions, so you know which ones  
10 he's referring to.

11 BY MR. PENNOCK:

12 Q. So, Mr. Paonessa, I'd like  
13 to look at Exhibit Number 35, please.

14 A. Okay.

15 Q. This is an e-mail in August  
16 2007. Al, I need your -- this is an  
17 e-mail to you, right?

18 A. Yes.

19 Q. I need your approval to  
20 change the monthly dosage limit  
21 percentage on the account listed below to  
22 99,999 percent, allowing them to purchase  
23 up to unlimited dosage units a month.

24 That would be for C-IIIs,

1 right?

2 MS. KOSKI: Object to form.

3 BY MR. PENNOCK:

4 Q. Do you see that statement?

5 A. I see unlimited. I don't  
6 know what the drug was.

7 Q. You don't know what the drug  
8 was.

9 But the only -- the only  
10 caps you had were on C-IIIs, weren't they?

11 A. No.

12 Q. You had -- what else did you  
13 have caps on?

14 A. Soma -- what year was this?

15 Q. 2007.

16 A. Hydrocodone, Soma, Adderall.

17 Q. Those are all C-IIIs?

18 A. Hydrocodone wasn't. Soma  
19 wasn't.

20 Q. You had caps on those?

21 A. Alprazolam, lorazepam.

22 Yes, we had it on every  
23 chemical that was a control, II through  
24 IVs.

1 Q. Would that have included  
2 opioids?

3                   A.     Yes, it would.

4 Q. So if they were buying  
5 opioids, they had unlimited?

6 A. Yes.

7 MS. KOSKI: Object to form.

8 BY MR. PENNOCK:

9 Q. Right?

10                    A.        Yes.

11 Q. Okay. Exhibit-36, February  
12 of 2009. And it starts out with an  
13 e-mail from Kim Bloom, and she writes to  
14 Dan Shannon -- sorry, Dan Shannon had  
15 written to Kim Bloom, Usage is 128,495  
16 tabs a month.

17                   A.       Yes.

18 Q. It says, Partners is already  
19 at their limits for the month on  
20 oxycodone combo and he needs products.

21 Do you see that?

22                   A.       Yes.

**(b) (5) DPP**

■ [REDACTED] [REDACTED]

■ [REDACTED] [REDACTED]

3 Do you see that statement?

4 A. Yes.

5 Q. And this gets forwarded up.

6 You see, Is there any way to make

7 Partners unlimited like we do BJK?

8 BJK was some other customer

9 of yours, right?

10 A. Yes.

11 Q. It makes sense. We know who

12 they are and we know what they do. We

13 really should treat them the same way as

14 we do BJK.

15 Right?

16 A. Yes.

17 Q. And Cochrane wrote to you, I

18 need your approval to make this location

19 unlimited.

20 A. Yes.

21 Q. Partners Pharmacy?

22 A. It's not a pharmacy. But

23 it's a long-term care, fourth largest in

24 the United States, still today.

1 Q. And you approved?

2 A. Yes, I did.

3 Q. It looks like -- I'm sorry,  
4 39 is a duplicate.

5 Sorry, 37 is a duplicate of  
6 36.

7 MS. KOSKI: That's why you  
8 didn't have any copies.

9 MR. PENNOCK: What?

10 MS. KOSKI: That's why you  
11 didn't have any copies. That's  
12 the one we didn't get.

13 BY MR. PENNOCK:

14 Q. So this would be 38.

15 MS. KOSKI: We'll just skip  
16 37, and the record will show  
17 there's no 37.

18 MR. PENNOCK: That's right.

19 BY MR. PENNOCK:

20 Q. Exhibit-38, September 9th,  
21 2008. It's an e-mail.

22 Hi George, I'm making sure  
23 this account is ready for this order that  
24 should be arriving today. I noticed that



1     these items are coming up customer  
2     ineligible. Here are the items. Can you  
3     please have these corrected so the order  
4     can be processed.

5                     Do you see that statement?

6             A.     Yes.

7             Q.     It says, Oxy order for  
8     Supervalu Advantage Logistics.

9                     Do you know them?

10            A.     Yes, they are a very large  
11     West Coast chain. They're still in  
12     business today.

13            Q.     And you made them unlimited,  
14     too?

15            A.     Yes. This was their -- this  
16     was their warehouse that supplied each  
17     one of their individual stores. They had  
18     their own vault.

19            Q.     They had their own what?

20            A.     They had their own vault.

21            Q.     And so you didn't -- when  
22     that happened, like with this, you didn't  
23     go do any due diligence on their  
24     individual stores?

1           A.     I believe that we did due  
2 diligence -- no, not on any individual  
3 stores.

4                     We would have done it with  
5 their corporate office and gone through  
6 their SOPs and what they had in place.  
7 We had numerous chains that we sold  
8 controls to.

9           Q.     Exhibit-39 is another, Need  
10 your approval, monthly dosage limit on

■ [REDACTED]  
■ [REDACTED]  
■ [REDACTED].

14           A.     Yes. This is -- this was,  
15 at the time, the largest wholesaler on  
16 Puerto Rico. And they are now owned by  
17 Cardinal. At that time in '08, I was  
18 still selling distributors and  
19 wholesalers, which I later stopped.

20           Q.     And, anyway, you approved  
21 them as well?

22           A.     Yes.

23           Q.     And June 12th, 2009,  
24 Cochrane writes to you, Al, I need your

1 approval to change the monthly dosage  
2 percentage on the account listed below

■

[REDACTED]

■

[REDACTED]

■

[REDACTED]

6 A. Which one is that?

7 Q. -- dosage units per month.

8 MS. KOSKI: 40.

9 THE WITNESS: I don't see  
10 40.

11 MS. KOSKI: You had it.

12 MR. PENNOCK: This is  
13 Exhibit-40.

14 THE WITNESS: No, I don't  
15 have 40.

16 I have a blank one. Oh,  
17 it's at the bottom. I'm sorry. I  
18 didn't see it.

19 Dispensing Solutions. I do  
20 not remember Dispensing Solutions  
21 back in '09. I don't know which  
22 account that is.

23 BY MR. PENNOCK:

24 Q. Well, in any event, you

■ [REDACTED]

2 month?

3 A. They were -- I remember now,  
4 I don't remember -- they were a  
5 repackager, as I explained in earlier  
6 questions.

7 They were one of the  
8 repackagers that dealt with nursing homes  
9 and other places and put them in blister  
10 packs, things like that. That's who  
11 Dispensing Solutions was. I think they  
12 were out of Tampa, I'm not sure, or  
13 California. I don't remember.

14 I met with this owner, too.  
15 He came to our building and brought his  
16 SOPs with him, I remember, when he came  
17 in, of how he did this. And we visited  
18 his location.

19 Q. Who visited?

20 A. Michael Cochrane.

21 Q. Here is June 2008,  
22 increasing the monthly dosage limit to  
23 2,400 percent.

24 A. This is, again, a whole --

1 it's a wholesaler, but a wholesaler for a  
2 grocery store chain in the Midwest. I  
3 don't remember what their brand name was  
4 that was out there. They had multiple  
5 ones.

6 And they had their own  
7 vault, so they did their own  
8 distribution. So we sold to them and  
9 then they sold it to their own chain.

10 But it's like Food Lion or  
11 something. I forget which one it is.  
12 But HJ Harkins, that's who they were.

13 Q. A lot of pills heading -- a  
14 lot of pills going out the door, huh?

15 A. Relative to --

16 Q. What a fiasco.

17 MS. KOSKI: Move to strike.

18 BY MR. PENNOCK:

19 [REDACTED]  
20 for Sandhills Packaging.

21 Do you know who they are?

22 A. I believe they are the ones  
23 that did the -- I'm not -- I shouldn't  
24 speak, but I believe that was the ones

1     that dealt with Kroger's. They did the  
2     special packaging for Kroger's specialty.  
3     But I'm not sure of that. I think that's  
4     who they were.

5             Q.     43, Kim Bloom, one of our  
6     favorites.

7                     She wants -- let's see, also  
8     need approval, 500 percent on Preferred  
9     Pharmaceuticals wholesaler, great mix.

10                    Each of these increases that  
11     are reflected on Exhibit-43, and you  
12     approved each of those?

13             A.     Yes.

14             Q.     And what -- is it your  
15     position or are you telling us, with  
16     respect to these, you had conversations  
17     regarding each and every one of these  
18     before you signed off on these?

19             A.     Thinking middle of 2010, I  
20     don't remember whether I had -- it's  
21     interesting that Kim is on these e-mails  
22     now and she wasn't on these e-mails in  
23     '09, '08 and '07.

24                     So I believe, unless her

1 title is on here, sales operations, I  
2 believe she was the one that worked with  
3 Michael. And if it came from her, then I  
4 knew the due diligence was done with  
5 Michael, and Robert wasn't there yet.

6 Once Robert came, he took  
7 over this for her. But I felt  
8 comfortable that these were looked at by  
9 Michael and his team before I would get  
10 this, yes.

11 Q. So you probably did not have  
12 a specific conversation with either of  
13 them, but were relying upon what you  
14 understood to be their due diligence, in  
15 terms of prior to these requests?

16 A. By 2010, I did that. And I  
17 even, you know, will call out, there's a  
18 doctor on here, and we stopped selling  
19 doctors.

20 So this was right in the  
21 time that, you know, we were changing,  
22 you know, and getting even more stringent  
23 after this.

24 But I would say I did not

1     talk to these people -- I did not talk  
2     about each one of these individually. I  
3     wouldn't say that I didn't talk about  
4     some of them, such as A&P Pharmacy, which  
5     was a chain. So I can't say I did or did  
6     not talk to them.

7                     But I doubt that I talked to  
8     them about each one of them.

9             Q.     What was the point of you  
10    signing off? Just because you were  
11    president?

12            A.     I wanted to know that they  
13    still followed the procedures that they  
14    were supposed to do. And I believe that  
15    they did.

16                     I did not want a change to  
17    be made into the system of an amount  
18    without me seeing it.

19            Q.     And last, Exhibit-44 --

20                     MS. KOSKI: Is that a  
21    repeat?

22    BY MR. PENNOCK:

23            Q.     -- Dispensing Solutions.

24                     Do you know who they are?



1           A.       Yes, we talked about them  
2       already. They were the ones out of Tampa  
3       or Los Angeles, where the owner came out  
4       and talked to us.

5                   MR. PENNOCK:   Okay. I don't  
6       think I have -- I have no further  
7       questions. Thank you.

8                   MS. KOSKI:   I will have a  
9       couple, but can I take a quick  
10      break first to make it shorter?

11                  MR. PENNOCK:   Yes.

12                  VIDEO TECHNICIAN:   Going off  
13      the record. The time is 3:19.

14                               -   -   -

15                   (Whereupon, a brief recess  
16      was taken.)

17                               -   -   -

18                  VIDEO TECHNICIAN:   Going  
19      back on record. Beginning of  
20      Media File Number 7. The time is  
21      3:29.

22                               -   -   -

23                               EXAMINATION

24                               -   -   -

1 BY MS. KOSKI:

2 Q. Mr. Paonessa, I just have a  
3 few questions about some of the exhibits  
4 that you went through with Mr. Pennock.

5 Do you have the exhibits in  
6 front of you?

7 A. Yes.

8 Q. If you'd turn to Exhibit-6.

9 A. Okay.

10 Q. And this was an e-mail from  
11 June of 2008, right?

12 A. Yes.

13 Q. And can you tell us what  
14 product is at issue in this document?

15 A. No.

16 Q. Is there anything on the  
17 face of the document that would tell us  
18 what product is being -- there's an  
19 increase request about? Strike that.

20 Is there anything on the  
21 face of the document that tells you what  
22 product Mike is talking about here?

23 A. No.

24 Q. Okay. Would you have known

1     what product he was talking about in June  
2     of 2008?

3             A.     Yes.   We would have talked  
4     about it.

5             Q.     But we're here in 2019,  
6     right?

7             A.     Yes.

8             Q.     If you look at Exhibit-5 --  
9     I'm sorry, I skipped one.

10            A.     Okay.

11            Q.     Same question, this is an  
12    e-mail from 2007, can you tell from the  
13    face of the document what product this  
14    relates to?

15            A.     No.

16            Q.     Exhibit-8.

17            A.     Okay.

18            Q.     E-mail from 2007.

19                    Can you tell from the face  
20    of this document what product is being  
21    discussed here?

22            A.     No.

23            Q.     If you could turn to  
24    Exhibit-13.

1           A.     Okay.

2           Q.     Do you recall discussing  
3     this product listing with Mr. Pennock?

4           A.     Yes.

5           Q.     And if you turn to the  
6     second page, Mr. Pennock asked you to  
7     focus on, Ordering C-IIs from Anda is  
8     easier than ever.

9                     Do you recall that?

10          A.     Yes.

11          Q.     And can you read for the  
12     jury the line that appears in relatively  
13     small print underneath?

14          A.     The purchase of controlled  
15     substances are subject to our monthly  
16     pill count policies.

17          Q.     Can you explain to the jury  
18     what that means?

19          A.     That we have policies in  
20     place, per chemical, of how much they are  
21     allowed to buy from us. And we do due  
22     diligence to allow them to have the  
23     drugs, as well as if they would need more  
24     for some reason, we do additional due

1 diligence as to, you know, how many pills  
2 that they could have per chemical.

3 Q. And just so it's clear, the  
4 "they" in your answer, is that customers?

5 A. Pharmacies, yeah.

6 Q. Just to refresh you back to  
7 Exhibit-28 that you talked about.

8 Do you remember talking with  
9 Mr. Pennock about New Choice Pharmacy?

10 A. Oh, okay. Yes.

11 Q. And do you recall this  
12 Exhibit-28?

13 A. Yes.

14 Q. And on the second page,  
15 there's a list of pharmacies that Mr.  
16 Wright, from the DOJ, is talking -- from  
17 the DEA, excuse me, is talking about.

18 Do you see that?

19 A. Yes.

20 Q. And the third up from the  
21 bottom is New Choice Pharmacy --

22 A. Yes.

23 Q. -- is that right?

24 Okay. I'm going to hand you

1     what I've marked as Exhibit-45.

2                                 -   -   -

3                                 (Whereupon, Anda-Paonessa

4                                 Exhibit-45,

5                                 Anda\_Opioids\_MDL\_0000272207-208,

6                                 was marked for identification.)

7                                 -   -   -

8     BY MS. KOSKI:

9                                 Q.     And for the record --

10                                A.     Okay.

11                                Q.     -- Exhibit-45 is

12                                Anda\_Opioids\_MDL\_0000272207 to 208.

13                                And you see there, there's

14                                an e-mail from Emily Schultz, on December

15                                11th of 2007, to customer maintenance.

16                                Do you see that?

17                                A.     Yes.

18                                Q.     And you're copied on that

19                                e-mail in the "cc" line?

20                                A.     Yes, yes.

21                                Q.     And what does Ms. Schultz

22                                say in the middle of the e-mail there,

23                                starting with, Please? If you could read

24                                that.

1           A.     Please change customer type  
2     to 2002, expired DEA, with today's date  
3     and remove schedules for the following  
4     accounts.

5           Q.     And if you turn the page,  
6     you'll see the eighth pharmacy listed  
7     from the top --

8           A.     Yes.

9           Q.     -- do you see that, New  
10    Choice Pharmacy?

11          A.     Yes.

12          Q.     So what does this e-mail  
13    tell you about New Choice Pharmacy?

14          A.     They were cut off from  
15    receiving controls, and this list was  
16    sent to the DEA.

17          Q.     And what was the date that  
18    they were cut off, according to this  
19    exhibit?

20          A.     12/11/2007.

21          Q.     And is that the same date  
22    that you received notification from Mr.  
23    Wright at DEA about this particular  
24    pharmacy, Exhibit-28?

1           A.       Yes, 12/11.   Same date.

2           Q.       If you could turn to  
3   Exhibit-35.

4           A.       Yes.

5           Q.       Okay.   And you recall  
6   talking about this exhibit with Mr.  
7   Pennock as well?

8           A.       Yes.

9           Q.       And can you tell from the  
10   face of this document what product is  
11   being discussed here?

12          A.       No.

13          Q.       And in August of 2007, would  
14   you have understood what product or  
15   products were being discussed?

16          A.       I would have -- I would have  
17   known, especially for MedCo, it's a very,  
18   very large nationwide company.   This was  
19   one of their many, many facilities.

20                   But I would have known what  
21   product it was at the time.

22          Q.       But on the face of this  
23   document, you can't tell?

24          A.       No.



1 Q. Okay.

2 MS. KOSKI: That's all I  
3 have.

4 Do you have follow-up?

5 MR. PENNOCK: Yes, I do have  
6 a couple. Just a couple.

7 - - -

8 (Whereupon, a discussion off  
9 the record occurred.)

10 - - -

11 MR. PENNOCK: Give us two  
12 minutes. We're just looking for  
13 something.

14 - - -

15 EXAMINATION

16 - - -

17 BY MR. PENNOCK:

18 Q. Sir, just a couple of  
19 questions about Exhibit-45.

20 You mentioned that there was  
21 an e-mail saying that New Choice Pharmacy  
22 should be cut off from sales on December  
23 11, 2007, right?

24 A. Yes.

1 Q. Counsel just asked you about  
2 that.

3 - - -

4 (Whereupon, Anda-Paonessa  
5 Exhibit-46,  
6 Anda\_Opioid\_MDL\_Tx-data\_CUY-SUM-OH  
7 \_00001; With Attachment, was  
8 marked for identification.)

9 - - -

10 BY MR. PENNOCK:

11 Q. Let me show you Exhibit-46,  
12 which is marked -- well, it's a native, a  
13 document produced in native format. And  
14 it's from -- transactional data from  
15 Anda.

16 MR. PENNOCK: Is this the  
17 number you're supposed to read,  
18 this thing here?

19 Anda\_Opioid\_MDL\_TX-data\_CUY-  
20 SUM-OH\_00001.

21 BY MR. PENNOCK:

22 Q. I'm going to direct you to a  
23 couple of columns in that, and then we'll  
24 be done?

1           A.     Okay.

2           Q.     Okay.  So if you turn to the  
3     last page of what I gave you, do you see  
4     that, according to this document, not  
5     only did you send oxycodone on the day  
6     before, on December 10th, along with  
7     fentanyl and hydrocodone and methadone --  
8     do you see that?

9           A.     Yes.

10          Q.     But on December 11th, the  
11     following were shipped:  Codeine,  
12     fentanyl, morphine, morphine, morphine,  
13     morphine, morphine, oxycodone.

14                     Do you see that --

15          A.     Yes.

16          Q.     -- from this document here?  
17                     Do you see that?

18          A.     Yes.

19          Q.     So that would suggest to  
20     you, would it not, that despite being --  
21     despite Ms. Schultz saying that New  
22     Choice should be shut off, at least as of  
23     that day, they weren't shut off and stuff  
24     was actually shipped out to them?

1           A.       I don't know the time of  
2       this -- there's no time stamp on the  
3       actual -- I got the date correct.

4                    I don't know what time the  
5       order was done and processed. And we  
6       open at 9 o'clock in the morning. So  
7       it's possible it was before they took  
8       them out of the system.

9           Q.       Right. It went out before  
10      this --

11          A.       Before we got --

12          Q.       -- it went out on the very  
13      same day, though?

14          A.       It went out on the very same  
15      day, yes.

16                   MR. PENNOCK: Thank you.

17                   MS. KOSKI: I have nothing  
18      further.

19                   VIDEO TECHNICIAN: This  
20      concludes today's deposition.  
21      Going off the record. The time is  
22      3:41.

23                   - - -

24                   (Whereupon, the deposition

1 concluded at 3:41 p.m.)

2 - - -

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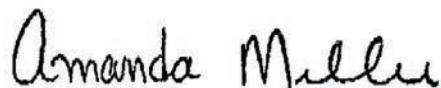
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CERTIFICATE

I HEREBY CERTIFY that the  
witness was duly sworn by me and that the  
deposition is a true record of the  
testimony given by the witness.



Amanda Maslynsky-Miller

Certified Realtime Reporter

Dated: February 11, 2019

(The foregoing certification  
of this transcript does not apply to any  
reproduction of the same by any means,  
unless under the direct control and/or  
supervision of the certifying reporter.)

1 INSTRUCTIONS TO WITNESS

2  
3 Please read your deposition  
4 over carefully and make any necessary  
5 corrections. You should state the reason  
6 in the appropriate space on the errata  
7 sheet for any corrections that are made.

8 After doing so, please sign  
9 the errata sheet and date it.

10 You are signing same subject  
11 to the changes you have noted on the  
12 errata sheet, which will be attached to  
13 your deposition.

14 It is imperative that you  
15 return the original errata sheet to the  
16 deposing attorney within thirty (30) days  
17 of receipt of the deposition transcript  
18 by you. If you fail to do so, the  
19 deposition transcript may be deemed to be  
20 accurate and may be used in court.

1			- - - - -
			E R R A T A
2			- - - - -
3	PAGE	LINE	CHANGE/REASON
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ACKNOWLEDGMENT OF DEPONENT

I, \_\_\_\_\_, do  
hereby certify that I have read the  
foregoing pages, 1 - 221, and that the  
same is a correct transcription of the  
answers given by me to the questions  
therein propounded, except for the  
corrections or changes in form or  
substance, if any, noted in the attached  
Errata Sheet.

\_\_\_\_\_  
AL PAONESSA

\_\_\_\_\_  
DATE

Subscribed and sworn  
to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

Highly Confidential - Subject to Further Confidentiality Review

	LAWYER'S NOTES		
	PAGE	LINE	
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